S. Hrg. 102-52

SAGUARO NATIONAL MONUMENT EXPANSION; MORRISTOWN NATIONAL HISTORICAL PARK ADDITION; MERCED COUNTY LAND USE; AND LOWER MERCED WILD AND SCENIC RIVER

HEARING

BEFORE THE

SUBCOMMITTEE ON
PUBLIC LANDS, NATIONAL PARKS AND FORESTS

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDRED SECOND CONGRESS

FIRST SESSION

ON

S. 292

TO EXPAND THE BOUNDARIES OF THE SAGUARO NATIONAL MONUMENT

S. 363

TO AUTHORIZE THE ADDITION OF 15 ACRES TO MORRISTOWN NATIONAL HISTORICAL PARK

S. 545

TO AUTHORIZE THE ADDITIONAL USE OF LAND IN MERCED COUNTY, CA

S. 549

TO AMEND THE WILD AND SCENIC RIVERS ACT BY DESIGNATING A SEGMENT OF THE LOWER MERCED RIVER IN CALIFORNIA AS A COMPONENT OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEMS

MARCH 21, 1991

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SAGUARO NATIONAL MONUMENT EXPANSION; MORRISTOWN NATIONAL HISTORICAL PARK ADDITION; MERCED COUNTY LAND USE; AND LOWER MERCED WILD AND SCENIC RIVER

THURSDAY, MARCH 21, 1991

U.S. Senate,
Subcommittee on Public Lands,
National Parks and Forests,
Committee on Energy and Natural Resources,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:40 p.m., in room 366, Dirksen Senate Office Building, Hon. Dale Bumpers, presiding.

OPENING STATEMENT OF HON. DALE BUMPERS, U.S. SENATOR FROM ARKANSAS

Senator Bumpers. The subcommittee will come to order.

The purpose of today's hearing is to receive testimony on four bills pending before the subcommittee. They are S. 292 to expand the boundaries of the Saguaro National Monument; S. 363 to authorize the addition of 15 acres to the Morristown National Historical Park; S. 545 to authorize a parcel of land in Merced County, California, to be used for an elementary school; and S. 549 to designate a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System.

All four bills were either before this committee late last year or were offered as floor amendments during the final days of the 101st Congress but for various reasons did not get enacted.

The Merced Wild and Scenic River and Merced elementary school legislation passed both the House and Senate on the final night of the 101st Congress, but because of amendments to unrelated titles, neither bill passed both Houses in the same form.

Although no action was taken on the Morristown National Historic legislation last year, $585,000 was appropriated in the 1991 Interior appropriations bill for the acquisition of the 15 acres authorized by the bill.

Finally, a bill to expand the Saguaro National Monument passed the House last October but because of the short amount of time remaining in the session the subcommittee was unable to schedule a hearing.

With respect to the Saguaro expansion legislation, I note that the two major landowners whose property would be included in the expanded monument boundary are here to testify here today in support of the bill. Like many other parks located near rapidly growing urban areas, Saguaro has been faced with increasing development pressures near its boundaries. It is encouraging to see affected property owners and conservation organizations work together to develop an expansion proposal that has such broad support, and I commend all of you for your efforts, and you, too, Senator McCain.

I would like to remind each witness today to please summarize your testimony and to limit your oral remarks to no more than 5 minutes. The entire statement will be put in the record.

At this time, I will place copies of all four bills in the hearing record and it will remain open for 1 week to receive additional comments and testimony.

[The prepared statements of Senators Murkowski, Seymour, Lautenberg, and Cranston, and the texts of the bills follow:]

PREPARED STATEMENT OF HON. FRANK H. MURKOWSKI, U.S. SENATOR FROM ALASKA

Thank you, Mr. Chairman. I appreciate your holding this hearing on expanding the Saguaro National Monument in Arizona, expanding the Morristown National Historical Park in New Jersey, granting additional use to land in Merced County, California for use as a school, and designating the Lower Merced River in California as a component of the National Wild and Scenic Rivers System.

I have a few concerns with three of the bills. I note that with two of the bills we are authorizing further acquisitions for the National Park Service. I believe that such authorizations, without money backing them up, only get added on to the vast backlog of unacquired but authorized additions to the National Park System or they will displace other authorized acquisition. This continual expansion, without matching appropriation, severely weakens the Park Service. We will reach a point, if we haven't already, where the NPS will no longer be able to provide services, and maintain existing parks and facilities to any sort of reasonable, acceptable standard.

I know that the Morristown addition has already been funded; I wonder where this specific acquisition would fit into a priority list of other Park Service proposals.

I am also concerned about the cost of the approximately 15 acres to be added to Morristown. Although I realize that land values in the area are extremely high, I was surprised to note that it would cost us about $39,000 per acre to acquire the parcel. Is this the beginning of a drive to acquire more and more land surrounding Morristown, or does this legislation fulfill the needs of the Park? I note that the Park Service has identified tracts in which it would be interested in acquiring, and I would not want to revisit this issue again in view of the extremely high cost of the parcels.

Regarding the expansion of Saguaro National Monument, I would like to congratulate both the Superintendent, Bill Paleck, the conservation groups involved, and the developers for this model compromise. I remember that this issue came up late last year, and despite the controversy then, the parties seem to have ironed out their differences.

However, I am concerned about the cost, just as I am concerned about the amount of money we are spending to acquire only 15 acres adjacent to Morristown. In the case of Saguaro, however, I am aware that the Park Service's first choice would be to exercise their land exchange authorities with one or more of the parties, and I trust that can be accomplished. I am also aware that the resources of this tract seem to merit continued effort to bring this exchange to fruition.

Last, I know there is a problem with the Merced County Irrigation District in the language in the bill referring to elevation. I want to ensure that their future ARC licensing is not adversely affected by this, and hope that we can resolve any problems the Irrigation District has with the bill.

Mr. Chairman, I have questions to submit for the record. Thank you for your time.

PREPARED STATEMENT OF HON. JOHN SEYMOUR, U.S. SENATOR FROM CALIFORNIA

Mr. Chairman, I very pleased and want to thank you for holding today's hearing on S. 545. Senator Cranston and I introduced this bill on March 5th of this year to allow for the much-needed expansion of the McSwain Union Elementary School District, which is located in Merced County, California.

Our legislation is necessary and will go a long way towards easing the McSwain Union Elementary School District's burden in meeting its obligation to area communities, which, I might add, includes a large influx of school-aged Hmong refugees.

In 1972, the General Services Administration declared a 40 acre parcel of land in Merced County as surplus property. The County applied for the land and title was conveyed to it in 1973 pursuant to the applicable federal law, the Federal Property and Administrative Services Act of 1949.

Since that time, several acres of the parcel have been developed as recreation and picnic areas as specified under the conveyance agreement. Early in 1989, the McSwain Union Elementary School District approached the County with a proposal to develop 15 acres of the parcel as a elementary school with adjoining public recreation areas to be operated and maintained by the school. Both sides quickly recognized the "win-win" aspect of such an agreement, and set to work to formalize such a sharing of the property.

The County and school district reached agreement on: the proposed use of the 15 acres as a project of great benefit to the community but have been unable to proceed with its impementation due to the strict language of the original deed of conveyance. Under the terms of the deed, if the County were to permit these 15 acres to be used for the elementary school, the entire parcel would convert back to ownership of GSA.

Given this brief background of the issue, it is clear that Merced County faces the choice of either losing the entire parcel of property it received in 1973, or forfeiting a new school building the McSwain Union Elementary School District so desperately needs.

S. 545 would resolve this situation to the benefit of all parties concerned, and extend the ultimate benefit to that special group of people most deserving of our attention and help—the school kids themselves.

I look forward to working with you, Mr. Chairman, so that we can expedite action on this important matter. With any luck, we will have modular classroom units on the proposed site and open for business in time for the upcoming term.

In closing, I ask unanimous consent that a statement in support of S. 545 by the McSwain Union Elementary School District Board of Trustees be inserted in the hearing record.*

PREPARED STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM NEW JERSEY

Mr. Chairman, I would like to express my support for S. 363 which expands the boundaries of Morristown National Historic Park in my state of New Jersey.

Morristown National Historic Park was created on March 2, 1933 to preserve lands and artifacts associated with the winter encampments of the Continental Army including the Ford House where General George Washington spent the winter of 1779-1780 and which was characterized by President Franklin Roosevelt as "our first White House." The Park Service recognizes the campsites at the Park's Jockey Hollow division as one of the largest collections of winter encampment troop remains to survive anywhere Morristown was also the place where General George Washington received the grave news about Benedict Arnold's treason at West Point.

The land Senator Bradley and I are seeking to add to Morristown NHP represents a special intertwining of historic and ecological values. This land is currently held by the estate of Sterling North, the late author of a number of books on nature. In its assessment of the North Property, the Park Service states that it "possesses great potential for preserving archaeological resources and for providing historical information on the winter encampment of the Continental Army." The North Property also contains Primrose Brook which plays a major role in the ecology of the Great Swamp National Wildlife Refuge. So by acquiring the North Property the Federal Government not only preserves an important piece of our nation's history, but also a critical piece of our environment.

Last year, I requested that the Senate provide $585,000 so that the National Park Service could acquire the Sterling North property and include it as part of the Jockey Hollow division of Morristown NHP. With the help of the distinguished Chairman of the Appropriations Committee, Senator Byrd, the Senate appropriated the money for this purchase.

---

* See Appendix.

The legislation that you are considering today will merely expand the park's legal boundaries by 15 acres and authorize the spending of those funds which have already been approved by the President and Congress as part of the Fiscal Year 1991 Interior Appropriations Act. It will require absolutely no further appropriation of money.

This acquisition is supported by numerous environmental groups in my state, the National Park Service and the Washington Association of New Jersey, which has direct, legal ties to the Park. Acquisition of the North Property represents an important opportunity for the federal government to preserve both our national and ecological heritage.

I urge the Committee to favorably report this legislation.

Thank you.

PREPARED STATEMENT OF HON. ALAN CRANSTON, U.S. SENATOR FROM CALIFORNIA

Mr. Chairman, I'm pleased to present this statement in support of two bills I'm sponsoring—S. 545, to authorize the additional use of land in Merced County, and S. 549, to designate the lower Merced River as a component of the National Wild and Scenic Rivers System.

First, regarding S. 545, in 1973 the Secretary of the Interior, conveyed 40 acres of surplus federal property to Merced County for use as a public park and recreation area. Last year the local McSwain Union Elementary School District expressed an interest in acquiring 15 acres of the 40 acre parcel as a site for an elementary school to serve its expanding student body. At the same time the school district offered to provide ball fields and other recreation facilities on the 15 acres and maintain lands which the county is developing for public recreation use.

However, under the original conveyance to Merced County, the county cannot deed the land to the school district. Rather the property must revert back to the federal government and can only be conveyed to the school district by the General Services Administration after having been offered to all other federal agencies and the public. While I know of no other party interested in the 15 acres, there is no guarantee the school district would ultimately receive the land. S. 545 will both expedite the process and assure that the school district obtains a much needed school site.

Turning to S. 549, this is legislation which the Senate passed late last year to designate 8 miles of the Lower Merced River as a component of the National Wild and Scenic Rivers System. As you will recall, the bill classifies 4 miles of the river as recreational and 4 miles as a wild river. It also withdraws the entire length of the main stem of the Merced River and portions of the South Fork from mineral entry, subject to valid existing rights. This withdrawal is essential to protect the river's recreational use and prevent cumulative impacts of dredging in the riverbed.

Additionally, the bill includes language directing the Secretary of Interior to approve the Saxon Creek Project consistent with the Wild and Scenic Rivers Act and other applicable federal law.

This project, which is necessary to ensure an adequate supply of water for Mariposa County, would pump a maximum of 5,000 acre feet of water a year from the Merced River near its confluence with Saxon Creek without adversely impacting the river's suitability for inclusion in the National Wild and Scenic Rivers System. Finally, the bill designates the North Fork of the Merced River as a wild and scenic study river. This river segment is approximately 15 miles in length.

I am aware that the Merced Irrigation District has expressed concern about the affect of the Lower Merced River designation on its New Exchequer Dam Project which forms Lake McClure Reservoir. The bill designates the river segment "from a point 300 feet upstream of the confluence with Bear Creek downstream to the point of maximum flood control storage of Lake McClure (elevation 867 feet mean sea level)." This language is consistent with the Bureau of Land Management's recommendation that the wild and scenic river corridor end at the elevation of the New Exchequer Dam's normal maximum flood storage pool (867 feet). I want to assure the Committee that it is not my intention to interfere in any way with the continued operation and maintenance of the New Exchequer Project, including flood control operations. Neither is it my intention to affect the Federal Energy Regulatory Commission's authority to relicense the project as presently configured when the current license expires in the year 2014.

Last year during the Senate debate on the Lower Merced River legislation, Mr. Chairman, you stated that you agreed that this designation would not affect flood control operations or relicensing of the existing project. I hope that you will reflect this understanding in any Senate Energy and Natural Resources Committee report on S. 549.

I also understand the Merced Irrigation District may, for the first time, raise the issue of another dam on the Merced River. This objection was not made by the district either at hearings in 1987 or last year. However, new dam construction is exactly the type of threat to the Lower Merced which S. 549 is intended to prevent.

Mr. Chairman, there continues to be broad public support for protecting the Lower Merced. The wild and scenic designation has the backing of the Mariposa County Board of Supervisors as well as the Sierra Club, The Wilderness Society, American Rivers, Friends of the River, the Merced Canyon Committee, the California Wilderness Coalition, Planning and Conservation League, and the California Recreational Trails Committee.

I urge you to approve both S. 545 and S. 549 promptly. Thank you.

II

102D CONGRESS
1ST SESSION

S. 292

To expand the boundaries of the Saguaro National Monument.

IN THE SENATE OF THE UNITED STATES

JANUARY 30 (legislative day, JANUARY 3), 1991

Mr. MCCAIN introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To expand the boundaries of the Saguaro National Monument.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPANSION OF BOUNDARY.

(a) BOUNDARY REVISION.—(1) In order to protect, preserve, and interpret, for the education and benefit of the public, the area generally to the south of the Saguaro National Monument (referred to as the "national monument"), which contains—

(A) an exceptionally rich area of saguaro cactus-palo verde uplands Sonoran Desert habitat;

(B) an outstanding riparian corridor of large Arizona sycamores and cottonwoods;

(C) prime habitat supporting the desert tortoise, gila monster, javelina, and other species of reptiles, mammals, and birds; and

(D) important archaeological and cultural sites,

the boundaries of the national monument are revised to include the lands and interests in land as generally depicted on the map entitled "Saguaro National Monument Enhanced Boundary", numbered 151/91.001-D, and dated September 1990.

(2) The map described in paragraph (1) shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) ACQUISITION OF LANDS.—(1) Subject to paragraph (2), the Secretary of the Interior may acquire land and interests in land within the boundaries of the national monument by donation, purchase with donated or appropriated funds, or exchange.

(2) Lands and interests in lands within the boundaries of the national monument that are owned by the State of Arizona or any political subdivision thereof may be acquired only by donation or exchange.

(c) ADMINISTRATION.—Lands and interests in lands acquired pursuant to this Act shall be administered as part of the national monument and shall be subject to all laws applicable to the national monument.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

○

II

102D CONGRESS
1ST SESSION

S. 363

To authorize the addition of 15 acres to Morristown National Historical Park.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 6 (legislative day, JANUARY 3), 1991

Mr. BRADLEY (for himself and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To authorize the addition of 15 acres to Morristown National Historical Park.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITION TO PARK.

The Act entitled "An Act to authorize the addition of lands to Morristown National Historical Park in the State of New Jersey, and for other purposes", approved September 18, 1964 (16 U.S.C. 409g), is amended by striking "600" each place it appears and inserting "615".

○

II

102D CONGRESS
1ST SESSION

S. 545

To authorize the additional use of land in Merced County, California.

IN THE SENATE OF THE UNITED STATES

MARCH 5 (legislative day, FEBRUARY 6), 1991

Mr. CRANSTON (for himself and Mr. SEYMOUR) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To authorize the additional use of land in Merced County, California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF ADDITIONAL USE.

(a) Subject to the requirements of this Act, the county of Merced, California (hereinafter in this Act referred to as the "county") is authorized to permit use of the land described in section 3 (hereinafter in this Act referred to as the "land") for the purposes of an elementary school, notwithstanding the restrictions on use of such land otherwise applicable under the terms of conveyance of such land to the county by the United States.

(b) Except as specified in this Act, this Act shall not increase or diminish the authority or responsibility of the county with respect to the land.

SEC. 2. USE OF LAND FOR ELEMENTARY SCHOOL.

(a) The authority of the county under this Act shall be limited to the authorization of use of the land for an elementary school serving children without regard to their race, creed, color, national origin, physical or mental disability, or sex, operated by a nonsectarian organization on a nonprofit basis and in compliance with all applicable requirements of the laws of the United States and the State of California.

(b) If the county permits use of the land as an elementary school, the county shall include information concerning such use in the biennial reports of the Secretary of the Interior required under the terms of the conveyance of the land to the county by the United States.

(c) Any violation of the provisions of this Act shall be deemed to be breach of the conditions and convenants under which the land was conveyed to the county by the United States, and shall have the same effect, as provided in the deed, whereby the United States conveyed the land to the county.

SEC. 3. LAND DESCRIPTION.

The land referred to in section 1 is the south 15 acres of the 40 acres located in the northeast quarter of the southwest quarter of section 20, township 7 south, range 13 east, Mount Diablo base line and Meridian of Merced County, California, declared to be surplus property by the United States in action 9–D–Calif–1028 and conveyed to the county by deed recorded in volume 1941 at page 441 of the official records of Merced County, California.

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II

102d CONGRESS
1st Session

S. 549

To amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System.

IN THE SENATE OF THE UNITED STATES

MARCH 5 (legislative day, FEBRUARY 6), 1991

Mr. CRANSTON introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF THE LOWER MERCED RIVER FOR INCLUSION IN THE WILD AND SCENIC RIVERS SYSTEM.

Section 3(a)(62) of the Wild and Scenic Rivers Act (16 U.S.C. 127(a)(62)) is hereby amended—

(1) by striking "The main stem" and inserting in lieu thereof, "(A) The main stem";

(2) by striking "paragraph" whenever it appears and inserting in lieu thereof "subparagraph"; and

(3) by adding the following new subparagraph at the end thereof:

"(B)(i) The main stem from a point 300 feet upstream of the confluence with Bear Creek downstream to the point of maximum flood control storage of Lake McClure (elevation 867 feet mean sea level) consisting of approximately 8 miles, as generally depicted on the map entitled 'Merced Wild and Scenic River', dated April, 1990. The Secretary of the Interior shall administer the segment as recreational, from a point 300 feet upstream of the confluence with Bear Creek downstream to a point 300 feet west of the boundary of the Mountain King Mine, and as wild, from a point 300 feet west of the boundary of the Mountain King Mine to the point maximum flood control storage of Lake McClure. The requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the Sierra Management Framework Plan for the Sierra Planning Area of the Folsom Resource Area, Bakersfield District, Bureau of Land Management. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subparagraph.

"(ii) To the extent permitted by, and in a manner consistent with section 7 of this Act (16 U.S.C. 1278), and in accordance with other applicable law, the Secretary of the Interior shall permit the construction and operation of such pumping facilities and associated pipelines as identified in the Bureau of Land Management right-of-way application CACA 26084, filed by the Mariposa County Water Agency on November 7, 1989, and known as the 'Saxon Creek Project', to assure an adequate supply of water from the Merced River to Mariposa County.

"(C) With respect to the segments on the main stem of the Merced River and the South Fork Merced River designated as recreational or scenic pursuant to this paragraph or by the appropriate agency pursuant to subsection (b), the minerals to federal lands which constitute the bed or bank or are situated within one-quarter mile of the bank are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto.".

SEC. 2. STUDY OF THE NORTH FORK OF THE MERCED RIVER.

Section 5(a) of the Wild and Scenic Rivers Act, as amended, (16 U.S.C. 1276(a)), is further amended by adding the following new paragraph at the end thereof:

"( ) NORTH FORK MERCED, CALIFORNIA.—The segment from its headwaters to its confluence with the Merced

River, by the Secretary of Agriculture and the Secretary of the Interior.".

○

Senator **Bumpers**. Senator McCain, we are very honored to have you with us here today and appreciate your interest in this bill and look forward to hearing your testimony.

STATEMENT OF HON. JOHN McCAIN, U.S. SENATOR FROM ARIZONA

Senator **McCain**. Thank you very much, Mr. Chairman, and before I proceed, could I express the appreciation on the part of myself and about 3.5 million citizens in my State for your consistent and outstanding support of issues affecting our State, and I refer to two major wilderness bills which you were instrumental in seeing passage, and legislation concerning the Grand Canyon and other parks and our forests in the State of Arizona. We are very close to making you an honorary citizen of our State, Senator.

Senator **Bumpers**. Well, my brother is a citizen of your State, and that is one of the reasons I have to pay so much attention to it. [Laughter.]

Senator **McCain**. Again, we are deeply grateful, Senator, for the lasting and very important impact you have had on our ability to be able to preserve the great natural beauty of our State.

Mr. Chairman, as you know, this bill seeks to enlarge and improve the Saguaro National Monument by incorporating adjacent lands of outstanding beauty and superior ecological values.

This expansion plan embodied in the legislation was developed by a coalition of conversation organizations and the affected landowners. This group deserves great praise for the spirit of cooperation and good faith that they developed during this expansion plan. It was at the request of this coalition, with the support of the Pima County Board of Supervisors and the City of Tucson that I first introduced this bill last year.

Mr. Chairman, the people of Arizona value the outstanding natural resources with which we have been blessed. Saguaro National Monument is one of our finest natural treasures. As stated in the authorizing legislation of 1933, the monument was established to preserve and protect the exceptional growth of various species of cacti, including the majestic saguaro cactus, helping to preserve this spectacular and well-known symbol of Arizona.

It is a very popular spot, Mr. Chairman, and the enactment of this bill would authorize the addition of 3,500 acres to the Rincon Unit of the monument, an area of 63,000 acres.

Mr. Chairman, the committee has been provided with maps. The land hosts healthy multi-aged saguaro stands which would add ecological diversity to the present unit. It is a prime habitat for numerous species of reptiles, mammals, and birds typical of the Sonoran desert. Additionally, the area contains important archeological and cultural sites.

As you know, Mr. Chairman, the bill authorizes the Secretary of the Interior to acquire the land through donation, exchange, or purchase, with donated or appropriated funds. Given fiscal austerity, I would imagine that exchange would probably be the method that would be used.

I know that Park Service officials have expressed some concern, citing their desire for an official boundary study. I think it is important to understand that this has been studied by Bill Shaw, who is with the University of Arizona's School of Renewable and Natural Resources and is currently working on contract with the National Park Service, and by Dr. Steve Carruthers, two highly capable and qualified individuals.

I know that the administration has some concerns about this legislation. I know that the administration and their representatives today share our commitment to attempt to preserve this great and important part of our culture and heritage.

Mr. Chairman, I believe the committee possesses resolutions and letters of support for the legislation from the Pima County Board of Supervisors, the City of Tucson, the Sierra Club, the Pima Trails Association, the Conservation Foundation, the Wilderness Society, and the Natural Parks and Conservation Association, amongst others. Mr. Chairman, I want to emphasize that virtually every environmental organization, both nationally and Statewide, supports this.

I would like to again congratulate the team, including Dave Simon, Chris Monson, and Pat Egbert. They set an example of cooperation and teamwork and I congratulate them.

I think the passage of this legislation is critical, Mr. Chairman. As you know, we were able to have it pass through the House last year. I hope we can get it done, and again, I am keenly aware, Mr. Chairman, if it were not for your personal attention to this issue in holding this hearing at this early date, we would not be able to move this legislation, and I extend to you my deep and sincere gratitude.

[The prepared statement of Senator McCain follows:]

PREPARED STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

Mr. Chairman and members of the committee thank you for holding this important hearing on S. 292 which I introduced on January 30th of this year. We greatly appreciate your attention to this measure in such a timely fashion. I'm certain that upon completion of today's testimony you will find the cause to be a very worthy one indeed.

As you know, this bill seeks to enlarge and improve the Saguaro National Monument, located in Tucson, Arizona, by incorporating adjacent lands of outstanding beauty and superior ecological values.

The expansion plan embodied in the legislation was developed by a coalition of conservation organizations and the affected landowners. This group worked together in a spirit of cooperation and good faith and the expansion plan they developed enjoys unanimous support in Arizona. It was at the request of the coalition, with the support of the Pima County Board of Supervisors and the City of Tucson, that I first introduced this bill last year. Although the House passed the measure in October, the 101st Congress adjourned before further action could be taken. We hope to successfully enact the legislation this year.

Mr. Chairman, the people of Arizona value the outstanding natural resources with which we have been blessed. Saguaro National Monument is one of our finest natural treasures. As stated in the authorizing legislation of 1933, the monument was established to preserve and protect "the exceptional growth of various species of cactai including the majestic saguaro cactus"—helping to preserve this spectacular and well-known symbol of Arizona. The monument is a favorite visiting spot for those seeking to experience our unique desert environment, to enjoy recreational opportunities or simply to get away from it all.

Enactment of S. 292 would authorize the addition of 3,500 acres to the Rincon Unit of the monument—an area of 63,000 acres. The committee has been provided with the boundary maps. The proposed addition contains outstanding natural features and would add significantly to the character and integrity of the current monument. The land hosts healthy multi-aged saguaro stands which would add ecological diversity to the present unit and is prime habitat for numerous species of reptiles, mammals, and birds typical of the Sonoran desert. Additionally, the area contains important archaeological and cultural sites.

The bill authorizes the Secretary of the Interior to acquire the land through donation, exchange or purchase with donated or appropriated funds. The legislation was drafted, in the normal fashion, to provide the Secretary with the widest degree of discretion in acquiring the land. This will enable the Secretary to choose the appropriate timing and means of acquisition in accordance with existing priorities and resources. Considering the fiscal condition of the federal government and the limited resources within the Land and Water Conservation Fund, I would certainly expect the exchange option to be the favored means of acquisition.

I know, previously, Park Service officials have expressed some concern about the plan, citing their desire for an "official" boundary study before moving forward with expansion. It's critical to understand that the Saguaro expansion area has been extensively studied by respected and distinguished professionals including Dr. Bill Shaw who is with the University of Arizona's School of Renewable and Natural Resources and who is currently working on contract with the National Park Service; and Dr. Steve Carruthers—a private environmental consultant. I understand the committee has been provided with a copy of the existing ecological data produced in part by Dr. Shaw and Dr. Carruthers. I would hope the Park Service would review this data. I feel certain it will fully answer the agency's questions about the additional acreage.

I believe the committee possesses the resolutions and letters of support for the legislation from the Pima County Board of Supervisors, the City of Tucson, the Sierra Club, the Pima Trails Association, the Conservation Foundation, the Wilderness Society and the National Parks and Conservation Association among others. If not, I would be happy to provide those documents to you.

Again, I would like to thank and congratulate the Saguaro National Monument boundary review negotiating team which has labored so diligently on the expansion plan. Specifically I would like to recognize Russ Butcher of the National Parks and Conservation Association, Dan Campbell and Peter Warren of the Arizona Nature Conservancy, Pat Egbert of the X9 Ranch, Frank Gregg, Ron Hilliard, Mike McNulty, Chris Monson of the Rocking K Development, Jim Nathanson of the Pima Trails Association, Jim Norton of the Wilderness Society, Ken Rait of the Sierra Club, Mark Raming, Doug Shakel, Bill Shaw, Luther Probst of the Conservation Association, Arlan Colton and Doug Koppinger of Arizona Open Land Trust and the others whose time, consideration and care have been so invaluable. They have set an example of cooperation and teamwork and I congratulate them.

Mr. Chairman, passage of this legislation is important to Arizona and to our National Monument system. We are blessed with a rich natural heritage—a heritage we are very proud of and fiercely determined to protect. As Arizona's population grows it's particularly vital that we preserve natural areas and provide recreational opportunities within or in close proximity to our urban centers. Enactment of the Saguaro National Monument Expansion Act will help us meet that important responsibility to this and to future generations.

I look forward to working with you and the committee on this legislation. With the committee's guidance and support, I hope the Senate can pass this measure in the near future. Thank you.

Senator BUMPERS. Thank you very much, Senator McCain. You have my wholehearted support for this bill, and I feel certain that it is going to have a fine ending in the Congress this year, and we thank you very much for your attention to it and coming over to be with us.

Senator DeConcini has sent a letter to the committee. He asked that I make it a part of the record and I do hereby insert his letter into the record.

[The letter referred to follows:]

U.S. SENATE,
Washington, DC, March 20, 1991.

Hon. DALE BUMPERS,
Chairman, Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: It is my understanding that your subcommittee will soon be considering S. 292, a bill to expand the boundaries of Saguaro National Monument.

In the interest of full disclosure, I want to make you aware of the fact that I belong to a partnership that owns property in the vicinity of Saguaro National Monument. Therefore, neither I nor any of my staff will be involved in any aspect of the consideration of this legislation in order to avoid any potential misperceptions of a conflict of interest on my part. Of course, the only exception to this would be to provide information requested by the Committee.

Mr. Chairman, while I understand the proposal before the committee enjoys widespread support, for the reasons stated above, I will not participate in any hearings or cast any votes involving this matter.

I request that a copy of this letter be included in the hearing record. Should you have any questions in this regard, please do not hesitate to contact me.

Sincerely,

DENNIS DECONCINI, *U.S. Senator.*

Senator BUMPERS. We have three administration witnesses, if you would please come forward: Stanley T. Albright, Regional Director for the Western Region of the National Park Service; Gerald D. Patten, Regional Director, North Atlantic Region, National Park Service; and Michael J. Penfold, Assistant Director for Land and Renewable Resources, Bureau of Land Management.

Gentlemen, you are welcome here, and let us go in the order of your names.

Mr. Albright.

STATEMENT OF STANLEY T. ALBRIGHT, REGIONAL DIRECTOR, WESTERN REGION, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, ON S. 292, ACCOMPANIED BY BILL PALECK, SUPERINTENDENT, SAGUARO NATIONAL MONUMENT

Mr. ALBRIGHT. Mr. Chairman, I appreciate the opportunity to provide your subcommittee with testimony on S. 292, a bill to expand the boundaries of Saguaro National Monument. We object to the enactment of this bill unless amended to provide for a boundary study. Any future boundary expansion of Saguaro National Monument should be conditional on the final recommendation of such a boundary study.

Mr. Chairman, we believe protection of the area proposed to be added to Saguaro National Monument by S. 292 might possibly be beneficial to Saguaro National Monument, but to date, however, no boundary study of Saguaro National Monument has been conducted by the National Park Service.

If this committee and the Congress intend to act on this issue, we recommend a boundary study be authorized that would permit our study of existing conditions, alternatives, and estimated costs. When such a study has been undertaken we will then be in a position to make an informed recommendation on this proposal.

S. 292 would authorize the Secretary of the Interior to acquire 3,000 acres within an expanded boundary of Saguaro National Monument, according to a map referenced in the bill. It would be authorized to be appropriated for this purpose such sums as were necessary to carry out this acquisition. The land is presently owned by two private entities and the State of Arizona.

The area proposed in the bill to be added to the East Unit of Saguaro National Monument includes an exceptionally rich area of saguaro cactus-palo verde uplands in the Sonoran Desert as well as a riparian zone including Rincon Creek and many tributaries.

The upper portion of Rincon Creek in this area is free flowing, and is one of the few remaining free-flowing streams untapped for

Tucson's water projects. The creek is lined with old Arizona sycamores, and cottonwoods, and traverses the proposed addition.

This area includes prime habitat for the desert tortoise and the gila monster. The area includes the prized saguaro that has suffered so dramatically over recent years from poaching. The area also includes prime archeological sites, including detailed petroglyphs.

The unfortunate condition of the saguaro calls for special consideration. The older saguaro—the majestic 40-foot saguaro—are dying with increasing regularity, and there are few young saguaro germinating to replace the older ones. Scientists suggest that pollution, city impacts, and poaching are causing the destruction. The area proposed in the bill for addition includes many mid-sized saguaro. In the existing unit of the monument there are few of the mid-sized saguaro.

Development from Tucson's ever-expanding population is on this park's doorstep. In 1933, when the monument was established, the population of Tucson was about 35,000 and the city limits were 15 miles from the park boundary. Today, the metropolitan population exceeds 675,000, and development occurs on the very boundary of the park.

The East Unit, at one time considered an outback wilderness miles from urban pressures, is now becoming a mountain island with city dwellers and accompanying urban activities threatening to surround it. The traditional uses of this region have declined and been replaced by more resource-consumptive urban development. As a result, habitat for many of the native species is rapidly being lost.

Because the area is becoming an island surrounded by development, species can be isolated. These species face an uncertain future without access to the rich riparian zone included in this area.

Cooperation, mutual understanding, adequate research, technical assistance, and sensitive land-use plans and development ordinances are key to the successful resolution of these issues of encroaching development.

There also may be cases where the issues can only be resolved through boundary adjustments, but we will need a complete study first to determine the best ways to protect this land. We understand there is a willingness of key property owners to discuss expansion of the monument.

In addition, the National Park Service has not completed a land cost estimate for this proposal. Cost estimates range from $10 million to $30 million.

This concludes my testimony on S. 292, Mr. Chairman.

There is also before the committee S. 545, to authorize the additional use of land in Merced County, California. The Department of the Interior has no position on S. 545, but we understand that the General Services Administration will be transmitting a report on S. 545 to the committee shortly. We have no comments to offer on the bill at this time.

Mr. Chairman, this concludes my testimony on S. 292.

I have with me today Superintendent Bill Paleck of Saguaro National Monument and we would be pleased to answer any questions you may have.

Thank you.

Senator **Bumpers**. Thank you very much.

Before we go any further, Senator Craig, do you have a statement?

Senator **Craig**. I do not.

Senator **Bumpers**. Senator Bradley, did you wish to make a comment on any of these bills?

STATEMENT OF HON. BILL BRADLEY, U.S. SENATOR FROM NEW JERSEY

Senator **Bradley**. Thank you very much. I just want to comment on S. 363, which is a bill that will increase land acquisition ceilings for the Morristown National Historical Park by 15 acres.

I am very pleased that in the testimony here we had the Park Service supporting enactment of S. 363. I think it will add greatly to the park. I think also it is under great pressure from development, and we have the money to do it, and therefore we need to pass this authorization to do it, and I am pleased the Park Service has supported it and I hope the committee will pass it—I am sure we will—and Mr. Chairman, I appreciate your willingness to consider this and hope that some day you can come to what is called Jockey Hollow and see some of it.

Senator **Bumpers**. I will be happy to do that, and some day I will let you support something in Arkansas.

Senator **Bradley**. Mr. Chairman, I was one of the prime movers in making sure that Hot Springs, Arkansas, the site of my parents' honeymoon, became a national historical site.

Senator **Bumpers**. If you can remember the name of the hotel, we will put it on the National Register.

[Laughter.]

Senator **Bradley**. Mr. Chairman, it is already in the National Register, and I have had many hot baths in that particular hotel.

Senator **Bumpers**. We do not give any other kind.

One other little housekeeping item here before we go any further, and that is, Senator DeConcini owns a parcel of land that apparently adjoins the 3,500 acres that is proposed in this bill and has therefore simply sent a letter and recused himself from any part in this legislation. As the old saying goes, you cannot be too careful in this business any more.

Mr. Patten, you are next on my list. Please proceed.

STATEMENT OF GERALD D. PATTEN, REGIONAL DIRECTOR, NORTH ATLANTIC REGION, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, ON S. 363

Mr. **Patten**. Mr. Chairman, I, too, appreciate this opportunity to provide your subcommittee with testimony on S. 363, a bill to increase the land acquisition ceiling at Morristown National Historic Park by 15 acres.

Mr. Chairman, we support enactment of S. 363. Morristown National Historic Park preserves the quarters for the Continental

Army during two critical winters. S. 363 would raise the land acquisition ceiling at Morristown National Historic Park from 600 acres to 615 acres.

This new authorization would allow the addition of up to 15 acres on the Sterling North Estate to the existing Jockey Hollow Unit at the park.

The Sterling North Estate totals 26 acres and includes a residence. Only the northern area of the estate to the maximum of 15 acres, is proposed for addition to the park. The portion proposed to be added includes a spring and a section of Primrose Brook, but does not include the residence. This area of the estate is adjacent to the existing boundary of the Jockey Hollow Unit and is in proximity to the encampment of the first and second Connecticut Brigades of the Continental Army.

The proposed addition has high potential for archeological resources associated with the Connecticut Brigade.

In addition, current zoning allows subdivision of this area into 5-acre home sites and development pressures on the area are intensifying as it becomes a commuting area for New York City.

The 1976 master plan for the park concluded that where serious encroachments present themselves and other alternatives for protection are unavailable, legislation should be sought for acquisition authority to protect the park setting.

Mr. Chairman, as you noted, in fiscal year 1991, $585,000 was appropriated for this acquisition. We believe the acquisition can be completed for this figure. Operating costs for this added acreage will be minimal, because it will be kept primarily in its natural state.

Senator **Bumpers**. How many acres are in that park now?

Mr. **Patten**. A total of 600 acres.

Senator **Bumpers**. Mr. Penfold.

STATEMENT OF MICHAEL J. PENFOLD, ASSISTANT DIRECTOR, LANDS AND RENEWABLE RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, ON S. 549

Mr. **Penfold**. The Bureau of Land Management appreciates being here to testify on S. 549, a bill that would designate the lower Merced River in California as wild and scenic. The Bureau of Land Management supports wild and scenic designation.

We place high priority on the preservation and management of the Merced River. In 1987, the BLM, the Forest Service, and the National Park Service conducted a joint study of the eligibility and suitability of the Merced River for inclusion in the wild and scenic river system.

The results of that study, published in the Sierra National Forest Land and Resource Management Plan showed the river—from within the Yosemite National Park, across the Sierra in Stanislaus National Forest and then across the public lands that we manage—was eligible and suitable for designation under the Wild and Scenic Rivers Act.

In November 1987, Public Law 100-149 was passed. It added 71 miles of the Merced River to the Nation's wild and scenic river system. About 8 miles of the river were placed in study-river status in order to allow the County of Mariposa time to resolve the county's domestic water supply needs from the Merced River. This has been done and S. 549 would direct the Secretary of the Interior to permit the construction and operation of the resultant Saxon Creek Project.

S. 549 would effectively preserve the last 8 undesignated miles of the Merced River; ensure the water source for Mariposa County without direct or adverse impact on the river; and allow recreational gold mining, to the extent that such use is consistent with other river uses and values, to continue.

It would establish proper classification of river segments. We understand the map of the river mentioned in the bill sets a reasonable one-quarter mile wide boundary for the wild and scenic corridor.

This legislation reflects a high degree of coordination, and cooperation that occurred among various government agencies: Federal, State and local municipal governments, interest groups and the general public.

We believe this bill is essential to protect and preserve and allow the proper management of the lower Merced River. This belief is widely shared by the public, about 90 percent of the public comments received in response to the joint agency study favored wild and scenic river designation.

This bill is consistent with BLM's land use plan for the Merced River and its provision are a logical extension of the 1987 act.

The boundaries of the segment of the Merced River included in S. 549 have been developed in the final management plan for the river published earlier this month by BLM. It would be helpful if the bill established those boundaries rather than merely referring to a map. We would suggest and we would be happy to work with the committee along that line.

Section 2 of this bill would amend the Wild and Scenic Rivers Act to require a study of the North Fork of the Merced River for potential inclusion in the wild and scenic river system. We concur with this provision.

The North Fork Merced River and its immediate environment appear to have remarkable scenery, recreation opportunities, historical resources, threatened and endangered wildlife. The North Fork is free flowing and is appropriate for study as a component for the wild and scenic river system. This study would cost about $75,000, and we probably would be working with the U.S. Forest Service on that if you go forward with this.

This concludes my statement, and I would be very happy to answer any questions.

[The prepared statement of Mr. Penfold follows:]

PREPARED STATEMENT OF MICHAEL J. PENFOLD, ASSISTANT DIRECTOR, LAND AND RENEWABLE RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

I appreciate the opportunity to appear here today to discuss S. 549, a bill to designate a portion of the lower Merced River in California as a Wild and Scenic River.

The Bureau of Land Management (BLM) supports Wild and Scenic designation for the lower Merced River and would support S. 549, if amended.

The BLM has placed a high priority on the preservation and management of the Merced River. In 1987, the BLM, the Forest Service, and the Park Service conducted a joint study of the eligibility and suitability of the Merced River for inclusion in the wild and scenic river system. The results of that study, published in the Sierra National Forest Land and Resource Management Plan, showed that the river from within Yosemite National Park, across the Sierra and Stanislaus National Forests, and then across public lands administered by the BLM was eligible and suitable for designation under the Wild and Scenic Rivers Act.

On November 2, 1987 Public Law 100–149 was passed and added 71 miles of the Merced River to the nation's wild and scenic river system. About 8 miles of the river were placed in study-river status in order to allow the County of Mariposa time to resolve the county's domestic water supply needs from the Merced River. This has been done and S. 549 would direct the Secretary of the Interior to permit the construction and operation of the resultant Saxon Creek Project.

S. 549 would effectively preserve the last 8 undesignated miles of the Merced River; ensure a water source for Mariposa County without direct or adverse impact on the river; and allow recreational gold mining to the extent that such use is consistent with other river uses and values. It would establish proper classification of river segments. We understand that the map of the river mentioned in the bill sets a reasonable 1/4 mile wide boundary for the wild and scenic river corridor.

This legislation reflects the high degree of coordination and cooperation that has occurred among various government agencies: federal, state, local and municipal governments, interest groups and the general public.

We believe this bill is essential to protect, preserve and allow proper management of the lower Merced River. This belief is widely shared by the public. About ninety percent of public comments received in response to the joint agency study favored wild and scenic designation.

The bill is consistent with the BLM's land use plan for the Merced River and its provisions are a logical extension of the 1987 legislation.

The boundaries of the segment of the Merced River included in S. 549 have been developed in the final management plan for the river, published earlier this month. It would be helpful if the bill established those boundaries rather than merely referring to a map.

We note that the first sentence of Section 1 of S. 549 would amend Section 3(a)(62) of the Wild and Scenic Rivers Act. Public Law 100–149, in adding segments of the Merced River to the National Wild and Scenic Rivers System, did not give it a subparagraph number. Section 3(a)(62) of that Act actually refers to the Kings River in California. We suggest that the numbering be corrected.

Section 2 of S. 549 would further amend the Wild and Scenic Rivers Act to require a study of the North Fork Merced River for potential inclusion in the Wild and Scenic Rivers System. We concur in this provision. The North Fork Merced River and its immediate environment appear to have outstandingly remarkable scenery, recreation opportunities, historical resources and threatened and endangered wildlife species. The North Fork is free flowing and is appropriate for study as a component of the Wild and Scenic Rivers System. A study would cost about $75,000.

This concludes my prepared statement. I will be pleased to answer questions.

BILL SUMMARY—S. 549

Section 1 of the bill would amend Section 3(a)(62) of the Wild and Scenic Rivers Act (WSR) to include the designation of an 8-mile segment of the Merced River above Lake McClure, California. (The citation for the WSR in the bill is incorrect: 16 U.S.C. 127(a)(62), assuming that 127 should be 1274, refers to Kings River, California. Public Law 100–149, in adding 71 miles of the Merced River to the national wild and scenic river system included no specific number inside the parenthesis.) Administration of the designated segment would be by the Secretary of the Interior, with specifically defined sections being managed as wild and other sections as recreational. It would direct the Secretary to make appropriate revisions to the Sierra Management Framework Plan for the Sierra Planning Area of the Folsom Resource Area, Bakersfield District of the Bureau of Land Management. It would authorize the appropriate sums necessary to carry out the purposes of the amendments of this provision.

Section 1 would also provide that, to the extent permitted by, and in a manner consistent with section 7 of the WSR (16 U.S.C. 1278), the Secretary of the Interior shall permit the construction and operation of water pumping facilities and associated pipelines for the Saxon Creek Project, a water supply project of the Mariposa County Water Agency.

Section 1 would further provide that, for the segments on the Main Stem of the Merced River and the South Fork Merced River designated as recreational or scenic pursuant to this bill or by the appropriate agency pursuant to "subsection b" (Section 3(b) of the WSR), "the minerals to federal lands which constitute the bed or bank or are situated within one-quarter mile of the bank" would be withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto.

Section 2 would amend section 5(a) of the WSR to designate the North Fork Merced River as a study river for potential addition to the National Wild and Scenic River System.

Senator **BUMPERS**. Mr. Penfold, there is some controversy about where the end point of the river segment ought to be, as you have noted. The bill sets the end point at the maximum flood control storage of Lake McClure.

Is that our very own beloved James McClure incidentally?

Mr. **PENFOLD**. You know, I just have to believe that it must be. But I do not know that. Let us believe that.

Senator **BUMPERS**. Elevation, 867 feet. Do you know the answer to that, Senator?

It is the point of maximum flood control storage of Lake McClure, elevation 867 feet. Why is that not adequate?

Mr. **PENFOLD**. That has been an issue out there. We think that the legislative history that has gone into this bill and all the work that has been done on a cooperative basis make it very clear that all parties would like to see the irrigation district be able to operate under its license and any future revisions of that license uninterrupted.

We understand that there is some unusual occurrence that could happen, and I do not believe it has happened before, that could raise that water level up to a level that would be into the boundary of the river as it is proposed.

We think the language is adequate, although if it were appropriate to even clarify that further so that that license could be operated in an uninterrupted manner, we would be happy to work with the committee on that.

Senator **BUMPERS**. Senator Craig.

Senator **CRAIG**. That does appear to be a concern of the Merced Irrigation District, that during those unique times of flood, optimum flood situation might be an encroachment upon this designated area. It would somehow reflect their concern about relicensing of that project.

Can you speak more clearly to that? Is there within the legislation itself, the designated legislation, any addressing of that concern?

Mr. **PENFOLD**. I believe there is some language that addresses that. It could well be that that could be clarified a little bit more, Senator.

My understanding is that there has never been a spill over that spillway. I could be incorrect, but I have been informed of that. And it would be a very unusual natural occurrence that could bring it up beyond that boundary.

Senator **CRAIG**. So at least to date, or the history of that reservoir and impoundment, there has to date been no record of encroachment into that area?

Mr. **PENFOLD**. That is my understanding, Senator.

Senator **CRAIG**. By flood water or pool water?

Mr. PENFOLD. That is my understanding, Senator.

Senator CRAIG. Mr. Chairman or Mr. Penfold, in the 8-mile corridor, what are the number of in-holdings and what is the total acreage involved there?

Mr. PENFOLD. There are approximately 220 privately owned acres inside the proposed boundary for the wild and scenic river. If you would like some of the specifics, about 160 acres of that are owned by the Merced Irrigation District.

There are two small——

Senator CRAIG. One hundred and sixty of the 220?

Mr. PENFOLD. One hundred and sixty of the 220, yes, sir. And then there are approximately 5 acres or 10 acres that are in two separate 5-acre tracts that are owned by private individuals and then there is a tract of about 50 acres that is termed the Mountain King Mine Tract, making about 220 acres.

Senator CRAIG. Are any of those properties, other than the irrigation district properties that abut the river?

Mr. PENFOLD. The Mountain King tract, I understand has come down to the boundary or come within the boundary and down to the river; and the 5-acre tracts are in very close proximity. I am not sure whether they come down immediately to the river or not, sir.

We can provide that for you, sir.*

Senator CRAIG. Has there been any difficulty with the property owners?

Mr. PENFOLD. No. They have been cooperating. As a matter of fact, the problems that we have generally have been with unpatented mining claims that have been operated as recreational mining activities.

We are in negotiation with the irrigation district right now and a couple of those other landowners—in friendly negotiations—for acquisition.

Senator CRAIG. Thank you.

Senator BUMPERS. Mr. Albright, on Saguaro, I do not have any strong objection to the Park Service doing a study if you will get cracking, and get it done.

How long do you anticipate such a study would take?

Mr. ALBRIGHT. I asked my colleague here, Mr. Chairman, because he was in the Denver Service Center and knows about those things time-wise: about 6 months to 8 months, sir. It will probably cost in the neighborhood of $75,000—something in that neighborhood.

Senator BUMPERS. Now do you have the money to make that study?

Mr. ALBRIGHT. It is not scheduled at this point in time, no, sir.

Senator BUMPERS. Are you telling this subcommittee that you want another bill for $75,000 and then wait 8 months to do the study and then pass the bill?

Mr. ALBRIGHT. We are requesting that the study be done, yes, sir.

Senator BUMPERS. Well, that is really troubling me. You state in your testimony here that this place is exceptionally rich in Saguaro cactus, one of the few remaining free-flowing streams, prime habitat for the desert tortoise and gila monster.

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* The information was not received at the time the hearing went to press.

You know, one of the reasons we are doing this is we want to preserve those very qualities that you describe in your testimony, and I would like to do it as quickly as possible. I wanted to get this bill out of here last year, of course, and almost got it done.

But we may try to pass this bill without that study being done. What do you think you would get out of that that we do not already know?

Mr. ALBRIGHT. I think the two things, Mr. Chairman, that would possibly arise out of that is the discussion of alternatives as well as the establishment of land value.

Senator BUMPERS. Well, why do you want to establish the values if we are going to put it in the National Monument?

Mr. ALBRIGHT. Well, because there are varying land interests involved there. There may possibly be some costs in terms of any land issues that have to take place there, in terms of either acquisition of properties or other things—balancing land values against one another—and also, the establishment of any kind of management responsibilities so we know how much the addition of that might take in terms of operational costs.

Senator BUMPERS. Did the Park Service ask for this study last year?

Mr. ALBRIGHT. I cannot address that. I can provide that for the record.*

Senator BUMPERS. Would you, please?

Senator CRAIG. Within this legislation there is no dispute on boundaries as it relates to the acquisition of the properties.

Senator BUMPERS. The 3,500 acres is well delineated, is it not?

Mr. ALBRIGHT. There is a map that is included with the legislation.

Senator CRAIG. There is no dispute at this time between the willing seller/willing buyer as to the lands to be acquired, right?

Mr. ALBRIGHT. I guess——

Senator CRAIG. I am looking at a map here that shows primarily two designates, X9 Ranch and Rocking K Ranch.

Mr. ALBRIGHT. Yes.

Senator CRAIG. As the private properties.

Mr. ALBRIGHT. Yes. I would like to call on Superintendent Paleck to address that question.

Mr. PALECK. Mr. Chairman, Mr. Craig, if I understand your question correctly, sir——

Senator CRAIG. It is a play off on the chairman's question and concern about—my concern is, if it has been established, the properties that are to be acquired and those boundaries have been well established and they are so stated in the legislation and there is no conflict between a willing selling and willing buyer at this time, is it necessary for the Park Service internally then to have this additional money to do this study prior to acquisition or following acquisition, which would result in the concern that the chairman has as to the acquisition of the lands for the protection of those values upon them.

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* The information was not received at the time the hearing went to press.

Mr. PALECK. The values will not change. As I understand the question and our position, we have not established ourselves as a willing buyer in this case, because we have not participated in the identification of those lines.

Senator CRAIG. The Park Service itself has not yet?

Mr. PALECK. That is correct.

Mr. ALBRIGHT. And that is why we feel we need the boundary study so that we could identify what we feel is the boundary. Yes, that we would wish——

Senator CRAIG. Is that why we are looking at a figure between $10 million to $30 million?

Mr. ALBRIGHT. That is correct.

Senator CRAIG. I wondered at the time, why the arbitrariness of the value.

Mr. ALBRIGHT. That is correct.

Senator CRAIG. Property values have not been established, nor has there been a price established at this moment?

Mr. ALBRIGHT. We have not participated in any of that, so we have not done any appraisal of any properties.

Senator CRAIG. That helps me understand some more of it then.

Senator BUMPERS. I think CBO last year, based on similar land values, estimated the value of this between $14 million and $20 million, did they not? Do you know that?

Mr. ALBRIGHT. I have no knowledge.

Senator BUMPERS. You have two principal owners here, is that correct? You have two ranchers here.

Mr. ALBRIGHT. That is correct, yes.

Senator BUMPERS. They are willing sellers, though we may not be a willing buyer, are they not?

Mr. ALBRIGHT. Correct, sir.

Senator BUMPERS. And as I say, these boundaries have been well established here, according to the information I have and according to this map, and they are willing to sell the land.

So, I am not sure what you get with a study. I am not sure I oppose it, but frankly, I usually smell OMB in these things. I smell them everywhere I go.

And I am just curious as to whether OMB is really behind this, to try to stall this or maybe kill it, which they are quite capable of doing.

I do not hear anything. Have you heard from OMB?

Mr. ALBRIGHT. I have not heard from OMB, sir.

[Laughter.]

Senator BUMPERS. You have not personally heard from OMB?

Mr. ALBRIGHT. That is correct.

Senator BUMPERS. Well, as my father used to say when I asked for the car on Friday night, well see into it, and we will have to see into this because I do not want to wait unless there is a really good, legitimate reason.

We will hear a little more testimony today and I will check into it. But I mean, if this is just another way OMB has of trying to kill a bill that I think is extremely important to this country and to that area, I am going to see if we cannot pass this bill.

I do not think you get anything out of the study, just off of the top of my head.

Gentlemen, thank you all very much for being with us.

Our first panel on Saguaro is Dave Simon of the National Parks and Conservation Association here in Washington; Chris Monson, president of the Rocking K Development, Tucson; James P.F. Egbert, ranch manager, X9 Ranch, Vail, Arizona.

Well, we have the two willing sellers right here in front of us, have we not? I did not hear any comment, maybe they are not willing yet.

Mr. **MONSON**. Yes, sir.

Mr. **EGBERT**. Yes, sir.

Senator **BUMPERS**. Mr. Simon, you are first up. Please proceed.

STATEMENT OF DAVID J. SIMON, NATIONAL RESOURCES PROGRAM MANAGER, NATIONAL PARKS AND CONSERVATION ASSOCIATION

Mr. **SIMON**. Thank you, good afternoon.

My name is David Simon. I am with the National Parks and Conservation Association. We are a citizens' organization, founded 72 years ago to enhance the preservation and public understanding of our national park system.

And I would note, I am also testifying here today on behalf of the Wilderness Society, the Conservation Foundation, World Wildlife Fund, and the Sierra Club, representing somewhere around 1 million members nationwide.

We are very pleased to be here to have the opportunity to present our views on S. 292, a bill which we strongly support, because we believe it truly represents a unique opportunity to preserve and enhance the national park system.

And if I might, Senator, contrast this bill with a subject that you were so eloquently addressing this morning: I feel that in 119 years we can be quite proud of the legacy and the result of this piece of legislation.

We are here today, extremely pleased because this bill had its genesis in discussions we initiated with one of the principal landowners, Rocking K Development Corporation.

Following a long period of consensus-building, S. 292 is a solid product of fruitful discussion and negotiation between a real broad cross-section of parties and landowners, and I know that Senator McCain has referenced some of the other endorsements of the bill, but it is supported by the Pima County Board of Supervisors, the mayor and city council, the Pima Trails Association, as well as all the affected landowners.

We are extremely grateful for the input, positive and constructive participation by Rocking K Development, as well as the Arizona State Land Department and the X9 Ranch.

We are very grateful to the entire Arizona delegation for their careful consideration of the issues involved in this bill, and their leadership, personal interest, I might add, in support of the expansion proposal.

It is indeed heartening when national, State and local government officials, key landowners, conservationists can all work together in the spirit of cooperation for the betterment of one of our cherished national parks.

S. 292 will authorize a very important addition to Saguaro National Monument, a unit that I would point out is incredibly important to the recreational and biological preservation values in a growing metropolitan area, consistent with the administration's desires to protect those values close to our urban populations.

The expansion area under consideration here has been professionally analyzed for its values. They have been found to be extraordinary and integral to the ecological, scenic, cultural, and recreational resources of the monument.

You perhaps have been provided with some photographs of the expansion area, Mr. Chairman, it is a dramatically scenic area, including a hidden valley, beautiful views of the Rincon foothills, and at a time when Saguaro Monument is definitely recognized to be one of the most, one of the threatened units in the park system, we find this bill to be very timely and appropriate.

You heard the Park Service testify to the ongoing problem with Saguaro mortality in the monument itself. The expansion area has an exceptionally rich area of Saguaro cactus-palo verde uplands Sonoran Desert habitat. This is a multi-aged stand that rivals or may exceed the quality of stands presently within the monument. This Sonoran Desert habitat is also prime habitat for the desert tortoise, the gila monster and other species of reptiles, mammals, and birds, typical of this ecologically rich area.

And I would add that the high density of saguaro and other vegetation in the area is also a dramatic symbol of the connection to the high wildlife values in this land.

In addition, the proposed expansion area includes an outstanding pristine riparian corridor on the X9 Ranch, as well as significant archaeological and other cultural sites. Moreover, the expansion area would reestablish public trail access into the southern portion of the monument, which has been lacking for several decades.

As an urban area and in fact, a congressional designated wilderness, so close to our urban populations, this is an important future and public benefit to the legislation.

We feel that the cumulative values of all of the resources here clearly merit Congress' approval as an addition to Saguaro, and we would note that the legislation did pass the House of Representatives last year and we appreciate the chairman's attempts to do so in the Senate last year.

We would like to offer one final suggestion for the committee's consideration, Mr. Chairman, and this may address some of the Park Service's concerns about the need for additional study, we recognize that this would impose some increases in responsibilities for the Park Service, and it will be important for the Park Service to complete a formal amendment the park's general management plan.

That would include an opportunity to decide what kind of alternatives would be considered for managing this area, and we recommend that Congress include a requirement in the legislation to complete the GMP amendment, and we feel that a year is probably an appropriate time frame.

The issue of assessing the value of the land, we feel is something that is normally taken up within the appraisal process, following many additions and expansions to the park system.

In conclusion, given the outstanding quality of the resources and the willingness of the effected landowners to be partners in this project, we underscore that this is truly an extraordinary opportunity to bring this worthy lands under the protection of the Park Service in perpetuity for the benefit of present and future generations before it is too late.

Thank you, Mr. Chairman, that concludes our testimony.

[The prepared statement of Mr. Simon follows:]

PREPARED STATEMENT OF DAVID J. SIMON, NATURAL RESOURCES PROGRAM MANAGER, NATIONAL PARKS AND CONSERVATION ASSOCIATION

Mr. Chairman and members of the subcommittee, my name is David J. Simon. I am the natural resources program manager for National Parks and Conservation Association (NPCA), a 285,000-member, nonprofit, citizens organization founded 72 years ago to enhance the preservation and public understanding of our national park system. I am also testifying today on behalf of The Wilderness Society, the World Wildlife Fund/Conservation Foundation, and the Sierra Club.

Thank you for the opportunity to present our views on S. 292, which would expand the boundary of Saguaro National Monument's eastern (Rincon Mountain) unit by approximately 3,540 acres. We strongly support the bill, which truly represents a unique opportunity to preserve and enhance the national park system.

We are extremely pleased to be here today, because this bill had its genesis in discussions that NPCA initiated in 1988 with one of the primary affected landowners, Rocking X Development corporation. S. 292 is a solid product of fruitful discussion and negotiation between a broad cross-section of parties and landowners. A consensus proposal was prepared and presented to the Arizona congressional delegation last year. This bill implements that proposal, and is also supported by the Pima County Board of Supervisors, the Mayor and City Council of Tucson, the Pima Trails Association, as well all affected landowners.

Rocking K Development, the Arizona State Land Department, and the owner of the X9 Ranch are to be commended for their positive and constructive participation in this process. We are extremely grateful to Senator McCain, and the entire Arizona congressional delegation, for their careful consideration of the issues, and for their leadership, personal interest, and support of the expansion proposal.

It is indeed heartening when national, state and local government, key landowners and affected neighbors, respected scientists, and conservationists all work together in a spirit of cooperation for the betterment of one of our cherished national parks.

S. 292 will authorize an important addition to Saguaro National Monument. The expansion area has been professionally analyzed for its values, which have been found to be extraordinary and integral to the ecological, scenic, cultural, and recreational resources of the monument. At a time when Saguaro National Monument is recognized to be one of the most threatened units in the national park system, we find this bill to be timely and appropriate.

Within the monument, saguaro mortality has been occurring at an alarming rate and there are major age group gaps in the saguaro stands because of decades of past livestock grazing in the monument. The expansion area—a valley and the surrounding hills of the Deer Camp Creek watershed—contain and exceptionally rich area of saguaro cactus-palo verde uplands Sonoran Desert habitat. The saguaros are a particularly excellent, multi-aged stand that rival or exceed the quality of stands presently within the monument. This Sonoran Desert habitat is also prime habitat for the endangered desert tortoise, gila monster, javelina, and other species of reptiles, mammals and birds typical of this ecologically-rich area.

In addition, the proposed expansion area includes an outstanding, pristine riparian corridor on the X9 Ranch, as well as significant archaeological and other cultural sites. Moreover, an expanded boundary would reestablish public trail access into the southern part of the monument. We feel that the cumulative public values of the resources within the expansion area clearly merit Congress' approval as an addition to Saguaro. Legislation identical to S. 292 passed the House of Representatives during the 101st Congress.

We would like to offer one suggestion for the committee's consideration, Mr. Chairman. Because this would represent a modest, but important expansion of the monument, and a corresponding increase in NPS responsibilities, it will be important for the NPS to complete a formal amendment to the park's general management plan. We recommend that Congress should include such a requirement in this legislation with a specified date for completion. One year should be an appropriate time frame.

In conclusion, given the outstanding quality of the resources and the willingness of the affected landowners to be partners in this project, we underscore that this is an nothing short of an extraordinary opportunity to bring these worthy lands under the National Park Service's protective management in perpetuity, for the benefit of present and future generations, before it is too late.

Thank you Mr. Chairman. I would be pleased to respond to any questions.

Senator BUMPERS. Thank you.

Mr. Monson.

STATEMENT OF CHRIS MONSON, PRESIDENT, ROCKING K DEVELOPMENT CO.

Mr. MONSON. Thank you for this opportunity.

You asked about the area to be examined. I have, and I think you have, a copy of the major study that was required by Pima County just 2 years ago telling you probably more than you even want to know about this area, evaluating all the vegetation, all the views, all the wildlife, all those kinds of things. It is a very extensive research and it does already exist, and as a taxpayer I would like to see——

Senator BUMPERS. We want to spend another $75,000, if we can, to do this again.

Mr. MONSON. That is only too frequent, I am afraid.

We are pleased to respond to your invitation to provide our views on S. 292, introduced by Senator John McCain, a proposal to enlarge the Rincon Mountain Unit and the Saguaro National Monument in Pima County in Arizona.

The recommendation to make this addition to the monument transmitted to Arizona's congressional delegation in June of last year by the National Parks and Conservation Association, the Wilderness Society, and the Conservation Foundation, resulted from many months of discussions and negotiations by all affected interests.

The concept of enlarging the monument goes back many years. Negotiations to acquire the Rocking K Ranch, which is adjacent to Saguaro National Monument, began more than 15 years ago. In 1979 the property was acquired by the Diamond and the Estates families with the intent to develop it into a master planned community.

Land use planning commenced 7 years ago. The Pima County Board of Supervisors approved an area plan for the Rincon Valley approximately 2 years ago, and the Pima County Board of Supervisors approved the specific plan for the Rocking K project in December of last year.

It has been the intention of Rocking K Development to develop the property into an environmentally sensitive master planned community.

Conservation groups, including the NPCA, have been urging the expansion of the monument, as I said, for many years. During the rezoning process of the Rocking K Ranch, these conservation groups and members of the Tucson and Pima County communities had expressed interest in (1) an expansion of the Saguaro National Monument and (2) the inclusion of a portion of the Rocking K landholdings in that expansion.

In 1990, Rocking K responded to a request by the NPCA, the Wilderness Society, and the Conservation Foundation, to attend meetings with other national conservation groups, local environmental leaders and the two other landowners affected by this proposal—the Arizona State Land Department and the X9 Ranch, located immediately east of the Rocking K.

To use the language of diplomacy, a "full and frank discussion of views" ensued. The environmentalists observed what we already knew: portions of the Rocking K are places of spectacular beauty and biological significance, places, in short, where many people would be delighted to live.

Together—conservationists and landowners—we agreed to employ the services of noted biologists to inventory the property and to identify those areas of the property most deserving of protection. This process identified approximately 3,500 acres for inclusion in the national monument.

According to these experts, "These lands encompass an extraordinarily scenic and ecologically and archaeologically significant hidden valley and surrounding hills of the Deer Creek Watershed. This valley, immediately adjacent to the present monument boundary, contains an exceptionally rich area of saguaro cactus-palo verde uplands of the Sonoran Desert habitat." Rocking K presently owns approximately 1,900 acres of those areas that have been identified.

If S. 292 is enacted and fully implemented, Rocking K has agreed to modify its development proposal permitting these ecologically sensitive lands to be protected by the Federal Government.

The Pima County Board of Supervisors resolved unanimously to support this expansion proposal, the Pima County Trails Association has embraced the proposal, the City of Tucson has endorsed it, and other Southern Arizona environmental groups have voiced enthusiasm for it.

You have received correspondence from the Saguaro National Monument East Expansion Coalition which demonstrates diverse and widespread support for S. 292. The Rocking K Development Company supports this proposal. Rocking K strives to be a good corporate citizen. We are proud of the Federal-local private partnership embodied in this proposal. It is good for all parties and interests.

Rocking K knows that any acquisition will receive appropriate public scrutiny. We welcome it. Any subsequent transaction will either be fair to both sides, or it will never transpire. We fully expect, pursuant to Interior Department policy, to receive the fair market value for the property sought to be acquired. As such, we are willing participants in the efforts to enlarge the monument. Rocking K supports enactment of S. 292.

Thank you, and I will be happy to respond to any questions you might have.

Senator BUMPERS. Thank you.

Mr. Egbert.

STATEMENT OF JAMES P.F. EGBERT, RANCH MANAGER, X9 RANCH

Mr. EGBERT. Mr. Chairman, I am here to acknowledge the support of the X9 Ranch and its owner, Eleanor W. Jackson, for the legislation which provides for the expansion of the eastern part of the Saguaro Monument within Pima County, Arizona.

The expansion of the monument will provide its residents and guests with unique riparian areas that will be enjoyed with a minimum of effort. I have requested that a copy of my statement be made a part of the record, so today I want to emphasize several points and will avoid reading the entire statement.

The value of the X9 Ranch as an addition to the Saguaro Monument is manyfold. It provides riparian corridors complementing existing saguaro habitat. Unlike most of the Saguaro Forest, the Chiminea and Rincon Creeks, located on the X9 Ranch, provide hard wooden cacti groves to the entire ecosystem. The ranch land includes stands of cottonwood, sycamore ash, and numerous other types of vegetation. The creeks themselves run intermittently for up to 10 months per year, thus they provide a valuable watershed, as the Chairman stated, for the Greater Tucson Area.

Development within the expansion area will provide legal access to the wilderness areas in the southeast reaches of the monument. Acquisition of the new land will provide pathways to existing trails.

As a resident of the X9, I can say that I am lucky enough to have seen the largest Saguaro within the monument. Its arms start at a point higher than the tallest hiker. Most people cannot get to that point to observe this beautiful specimen. Your legislation will open this natural treasure to many citizens.

In the past, we have had a good working relationship with the monument. The Jacksons used to ranch the southern portion of the monument. An amicable agreement was reached when grazing was no longer appropriate. We have permitted the monument personnel access for all administrative purposes, and have assisted the monument when necessary with fire protection and suppression.

We have worked closely with Bill Paleck, the present superintendent of the monument, and the X9 Ranch Owners Association to protect valuable natural resources within and without the monument boundaries. Monument expansion is another example of the Jacksons' commitment to good working relations with the National Parks Service.

Mr. Chairman, if I may approach the dais, my daughter and I took some pictures this past weekend of some of the area.

Senator BUMPERS. Fine.

Mr. EGBERT. I would encourage you to show them around and show you some of what we feel you will be getting for your money. We think it will be money well spent. We encourage any questions that you may have.

[The prepared statement of Mr. Egbert follows:]

PREPARED STATEMENT OF JAMES P.F. EGBERT, RANCH MANAGER, X9 RANCH

The value of the X9 Ranch as an addition to the Saguaro National Monument is manyfold. It provides riparian corridors complementing existing saguaro habitat. Unlike most of the saguaro forest, the Chiminea and Rincon creeks located on the

X9 Ranch provide hardwood and cacti groves to the entire ecosystem. The Ranch land includes stands of cottonwood, sycamore, ash, and numerous other types of vegetation. The creeks themselves run intermittently for up to ten months per year. Thus, they provide a valuable watershed for the Greater Tucson area which relies on groundwater as its water source.

Also, the Ranch properties, which become a portion of the Monument, include significant stands of Saguaro cacti. The additions would complement existing Saguaro forests in the eastern area of the Monument. Though I am not a botanist, I do believe the new land would add both old and new specimens to the forest. This is an appropriate goal for the Park because other portions of the Monument have suffered a declining Saguaro population.

Historically, the land was used by the Hohokam Indians. The creeks provided water and the cacti provided food for the residents. Now, the real property, which is the subject of the Monument expansion, is basically controlled by three parties: The Rocking X Ranch development, the state of Arizona and the Henry W. Jackson Family Trust. Eleanor W. Jackson is the beneficiary of the Trust. Henry and Eleanor W. Jackson acquired the X9 Ranch in 1955 and have ranched the property since that date. Today, they own approximately 1300 acres of deeded land and hold the lease to the state land which forms a part of the proposed expansion.

The proposed X9 expansion area includes not only the ranch land adjacent to the Monument, but also the ranch headquarters. We requested that this property be included in the boundary expansion proposal, not because of any immediate desire to sell the Ranch, but because it allows Monument personnel to fully evaluate what is available and judge for themselves what should be done with the property to best preserve the Monument and make it a better park for the citizens who will enjoy it. Mrs. Jackson, the beneficiary of the Trust which owns the Ranch, has no burning desire to leave. Rather, she wants to provide for a transfer of the Ranch to the Federal government with a right to continue to live on the premises during the remainder of her life. Presently, Mrs. Jackson is in her 70's. Such a settlement would be beneficial to the Monument because it would provide immediate utilization of the property and full ownership at a later date.

Development within the expansion area is nil. Indeed, planned hiking and riding paths through the proposed expansion area will provide legal access to the wilderness areas in the southeast reaches of the Monument. Acquisition of the new land will provide pathways to existing trails. As a resident of the X9, I can say that I am lucky enough to have seen the largest Saguaro within the Monument. It's arms start at a point higher than the tallest hiker. Most people cannot get to the point to observe this beautiful specimen. Your legislation will open this national natural treasure to many citizens.

If you look at current maps you will see that part of the land that is proposed as an expansion of the Monument is currently designated Forest Service land. In reality, the land was transferred to the Jacksons during the 1960's. Whether this legislation will eliminate the inaccurate forest boundary line should be investigated.

In the past, we have had a good working relationship with the Monument. The Jacksons used to ranch the southern portions of the Monument. An amicable agreement was reached when grazing was no longer appropriate. We have permitted the Monument personnel access for all administrative purposes and have assisted the Monument when necessary with fire protection and suppression. We have worked closely with Bill Paleck, the present Superintendent of the Monument, and the X9 Ranch Owners Association to protect the valuable natural resources within and without the Monument boundaries. The monument expansion is another example of the Jackson's commitment to good working relations with the National Park Service. Of course, benefits from the transaction will come to the Jackson family. Still, Eleanor Jackson believes that this is doing that which is right for the community.

The alternative to Monument expansion is the specter of unnecessary and intensive expansion near the boundary. Your legislation provides the National government with the opportunity of placing reasonable checks on that possibility.

Senator BUMPERS. Mr. Egbert, how many acres are in this proposal that affects X9 Ranch?

Mr. EGBERT. Approximately 1,300.

Senator BUMPERS. What is it in Rocking K?

Mr. MONSON. It is about 1,900, so there is a couple of hundred acres that belongs to the State Land Department.

Senator BUMPERS. Is that the only three landowners?

Mr. MONSON. Yes, sir.

Mr. EGBERT. No, sir. On the X9 Ranch, the X9 Ranch is controlled by two different trusts. There is a Henry W. Jackson Family Trust, and then there is a Henry W. Jackson Irrevocable Trust. The trustee of the second trust is the First National Bank, and the beneficiaries of that trust are the children of Henry and Eleanor Jackson. I have spoken with them and they support the proposition.

Senator BUMPERS. They are all willing sellers?

Mr. EGBERT. Yes, sir.

Senator BUMPERS. Have you established any values? Have any negotiations taken place on price?

Mr. EGBERT. No, sir.

Senator BUMPERS. Is there any threat? Can you perceive of any threat to the resources, at least on your two tracts, forgetting the State lands, that might occur as a result of a 6- to 8-month period to do the study that the National Parks Service wants to do?

Mr. MONSON. I do not believe that that study is necessary, based on what has been done.

Senator BUMPERS. I do not, either.

Mr. MONSON. My concern is we have been quite patient in this, and we are having to do infrastructure now for some studies for development. They are simply being held up, and that time is very expensive, so the only issue would be what we would probably request to be paid for that kind of a delay.

Mr. EGBERT. From our perspective, Mr. Chairman, it makes no difference, because in our proposal—we have talked informally about it—we would request that Mrs. Jackson be able to live there for the remainder of her life on some sort of a life estate, so we have no immediate rush; 6 months would make no difference to us.

Mr. SIMON. Mr. Chairman, I would add that we tried to bring the best inventory and scientific resources to bear in doing the inventory of the lands prior to approaching the delegation with the proposal. In fact, I appreciate your noting that one of the biologists involved is currently under contract to the Parks Service. I think an additional study would probably quite justifiably endorse the credentials of these individuals who did the work.

Senator BUMPERS. I would have to be convinced that we were going to get $75,000 worth of benefit out of it. That is the problem with the Federal Government, we study everything to death, and here you have got a report that probably takes into consideration just about everything we can get out of this, and I want to get this bill passed as soon as possible.

I know, as you point out, Mr. Monson, correctly, you have been patient—well, for many, many years, waiting for this to happen, and I want it to happen, and I want it to happen at the earliest possible time. If somebody could convince me the study is worth that and really necessary for this legislation, then I might consider it, but I am certainly not persuaded right now.

Gentlemen, I thank all three of you very much. Is this your daughter back here?

Mr. EGBERT. Yes, sir.

Senator BUMPERS. Those pictures are really magnificent.

Mr. EGBERT. She took half of them.

Senator BUMPERS. I can tell the half she took.

[Laughter.]

Senator **Bumpers**. Our second panel today is Donald J. Hellmann, with the Wilderness Society, and Jay Anderson, consultant and former general manager of the Merced Irrigation District.

Mr. Hellmann.

STATEMENT OF DONALD. J. HELLMANN, THE WILDERNESS SOCIETY

Mr. **Hellmann**. Mr. Chairman, on behalf of the Wilderness Society and American Rivers I am pleased to appear before you today in strong support of S. 549, a bill to designate the lower 8 miles of the Merced River in California as a component of the National Wild and Scenic Rivers System.

As you are aware, Mr. Chairman, we began this journey a few years back and we designated at that time 71 miles of the main stem of the Merced and 43 miles of the South Fork, and at that time Congress decided to make the lower 8 miles a study river. The Wilderness Society supported the designation of those 8 miles at that time, yet we recognized that Mariposa County needed to have some additional time to study their water resource needs.

We worked with the county. Since that time, we have agreed that they have come up with a very good project that is consistent with the Wild and Scenic Rivers Act, the Saxon Creek project, and we fully endorse that and endorse its inclusion in this legislation.

Mr. Chairman, I am not going to go over my whole statement, but I do want to spend a little bit of time addressing the concerns of the Merced Irrigation District, and I think it is particularly important that you know what my background on this has been, because for the past 6 years I have been actively involved in this, the last 4 years representing the Wilderness Society but the 3 years prior to that as being a staff member for Representative Tony Coelho, who was the prime author of this legislation in the House of Representatives.

During the formation of the first Merced River bill the Merced Irrigation District basically opted out of the process during its drafting and during its community consideration and during the floor debate. It was only at the time that the differences between the House and the Senate versions of the bill were being resolved that the district expressed its concern about designating the last 8 miles of the river.

Now, at that time, MID told me that it feared that the designation of the lower 8 miles of the river would interfere with the operation of the New Exchequer Dam because their project boundary extended further up the river beyond the 867 mean sea level that is mentioned in the bill. MID could not reconcile this with the fact that the FERC license gave them a maximum flood pool up to elevation 865.

Mr. Chairman, I made available to your staff last year a copy of the FERC license. If you have it, or if its available, on page 899 it very clearly says "a maximum water surface elevation of 865 feet," which is actually 2 feet different than what they have designated in this bill here.

At that time, I was skeptical of their reasoning and I recommended to Representative Coelho that we place as much of the Lower Merced in study status as possible because MID had failed to make a case for not studying all 8 miles. Congressman Coelho agreed, and Congress passed legislation designating all of the lower 8 miles as a study river.

Last year, MID once again did not take part in the drafting of the bill, nor did it testify at either the House or the Senate hearings. The irrigation district requested report language clarifying that wild and scenic designation would not interfere with the operation of the New Exchequer Dam, to which the environmental community agreed, and which was placed in both the House and the Senate report, yet after the bill had passed the House and was reported from your committee, MID changed its story for a third time. They said at that time report language was not adequate, and they made a concerted effort to stop the bill unless legislative language was included to protect their interest, which I again found to be nebulous.

Now, this year we are finding that MID—I am sorry, that time MID was supposedly concerned about the circumstance that under extreme circumstances water could back up from the dam into the lower 1½ miles of the designated river. MID feared that when it went to FERC for renewal of its license in 2014 the environmental community would object to water backing up into the designated river segment, and thus asked FERC to have MID lower the dam.

Now, at that time I stated, and I will state once again, that no one in Congress can control either the weather or floods when they happen. Under these extreme circumstances, there is nothing that anyone can do to stop them. We had no intention of having the designation interfere with the dam's current operations and requested committee report language to acknowledge this fact.

One other thing that I will mention, Mr. Chairman, is there is no guarantee in the year 2014 that FERC is going to award the license to MID to begin with. That is not a given. They must go in and make their case again.

Now, when a new Congress is considering this bill, I understand that MID is opposed to this bill altogether, with their reasons changing for a third time. The real reason the irrigation district opposes the bill has nothing to do with the flood pool, but with the idea that MID contemplates one day having another dam on the river.

The irrigation district has used the current drought as an excuse for needing this dam and for opposing this legislation. It has shown no reasons why this dam is necessary, practical, or even possible, and I understand also in looking at a copy of their testimony that they are going to ask you for another 3 years to let the time of the study status run before Congress acts on this legislation.

Well, I would just like to point out, Mr. Chairman, that the Wild and Scenic Rivers Act allows the study to take place in 3 years time. It has been over 3 years since that legislation was passed and signed into law by President Reagan in the fall of 1987.

Now, the Wilderness Society believes MID has not made its case for having a dam, for requiring legislative language to protect MID during relicensing proceedings, or for having the Wild and Scenic designation stop at any point except 867 feet mean sea level. There is no valid reason for opposing a Wild and Scenic designation on all 8 miles of the river, and we believe, indeed it is past time for Congress to act on this legislation, so we urge you, Mr. Chairman, to move ahead on this legislation and get this legislation enacted as soon as possible.

Before I stop, I wanted to note I have statements in support of this legislation which I have provided to staff from Friends of the River, the California Wilderness Coalition, the Planning and Conservation League, and from Hildegard Hight and William Imhoff, who, by the way, are co-owners of the Mountain King Mine which was mentioned earlier as property that goes down to the river in this stretch that would be designated, all in support of the legislation. I ask that they be included in the record.

Senator **BUMPERS**. Without objection, I will place them in the record.*

[The prepared statement of Mr. Hellmann follows:]

PREPARED STATEMENT OF DONALD J. HELLMANN, THE WILDERNESS SOCIETY

On behalf of The Wilderness Society and American Rivers, I am pleased to appear before you today to express our strong support for S. 549, a bill to designate the lower eight miles of the Merced River in California as a component of the National Wild and Scenic Rivers System. As you know, this bill would complete the work which began over six years ago to provide for the protection of this important natural resource.

In 1987, Congress designated 71 miles of the main stem of the Merced, and 43 miles of the South Fork as wild and scenic rivers. At the time this legislation was being considered, The Wilderness Society supported the designation of the lower eight miles; however, concerns about future water supplies for residents of Mariposa County precluded immediate designation. Instead, Congress agreed to study this part of the river to allow the county time to explore future water options.

Mariposa County has now approved and is moving forward with a water project that will be consistent with the Wild and Scenic Rivers System. The Saxon Creek project will allow the county to draw a maximum of seven cubic feet per second from the river—an amount permitted under the Wild and Scenic Rivers Act. This withdrawal will not harm the flow of the river.

The Mariposa County Board of Supervisors voted unanimously last year to support designation of the lower river. We have worked closely with them, the Bureau of Land Management, and ~~memb~~ers of Congress on the legislation being considered today.

Along with the wild and scenic designation of the lower eight miles of the river, we support the withdrawal from mineral entry of the segments of the river covered by this legislation and the 1987 legislation. This withdrawal will allow better management of the river's resources by BLM through the use of a permit system and will help to resolve conflicts with other recreational activities.

We are also pleased that this legislation includes an amendment proposed by The Wilderness Society last year and included in the committee-reported bill from the last Congress. A study of the North Fork of the Merced River for future designation as a wild and scenic river is authorized by S. 549. This river is approximately 15 miles long and flows through the Stanislaus National Forest and BLM land. There is only one private parcel of land along its course.

The draft Stanislaus National Forest plan found that the national forest portions of the North Fork (approximately 50%) were eligible for wild and scenic designation, but the agency did not recommend it. BLM, on the other hand, has not studied its half of the river. A provision to require a study of the North Fork would allow consideration of the whole length for designation in the future.

I have been told that the Merced Irrigation District (MID) has come out in opposition to this bill. Because of their position, I believe it is important for this committee to know the background of both my involvement and the district's with this legislation.

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* See Appendix.

For the past six years I have been actively participating in the formulation and movement of the Merced River legislation. During the last four years I have been representing The Wilderness Society on this legislation, and prior to that time I worked for the primary author of the original Merced legislation in the House of Representatives, Rep. Tony Coelho.

During the formation of the first Merced River bill in 1985-87, the Merced Irrigation District opted out of the process during its drafting, committee consideration, and floor debate. It was only at the time differences between the House and Senate versions of the bill were being resolved that the district expressed its concern about designating the last eight miles. At that time MID told me it feared that the designation of the lower river would interfere with its operation of the New Exchequer dam because their project boundary extended further up the river beyond the 867 mean sea level mentioned in the bill. MID could not reconcile this with the fact that their FERC license gave them a maximum flood pool up to elevation 865 mean sea level.

I was skeptical of their reasoning and recommended to Rep. Coelho that we place as much of the lower Merced river in study status as possible because MID had failed to make a case for not studying all eight miles. Rep. Coelho agreed, and Congress passed legislation designating 71 miles of the Merced as wild and scenic and the lower eight miles as a study river.

Last year, MID did not take part in the drafting of the bill, nor did it testify at either the House or Senate hearings. The irrigation district requested report language clarifying the wild and scenic designation would not interfere with the operation of the New Exchequer Dam, to which the environmental community agreed, and which was mentioned in both the House and Senate reports.

Yet, after the bill had passed the House and was reported from the Senate Energy Committee, MID changed its story. Report language was not adequate, and MID made a concerted effort to stop the bill unless legislative language was included to protect their interests, which were again nebulous.

This time, MID was supposedly concerned that under extreme circumstances, water could back up from the dam into the lower mile and a half of the designated river. MID feared when it went to the Federal Energy Regulatory Commission for renewal of its license in 2014, the environmental community would object to water backing up into the designated river segment and thus ask FERC to have MID lower the dam.

Last year I stated that no one in Congress can control the weather and/or floods. When these extreme circumstances take place, there is nothing anyone can do to stop them. We had no intention of having the designation interfere with the dam's current operations and requested committee report language to acknowledge this fact.

Now, when a new Congress is considering this bill, I understand that MID is opposed to this bill altogether, with their reasons changing for a third time. The real reason the irrigation district opposes the bill has nothing to do with the flood pool, but that MID contemplates one day having another dam on the river. The irrigation district has used the current drought as an excuse for needing this dam and for opposing this legislation. It has shown no reasons why this dam is necessary, practical or even possible.

The Wilderness Society believes MID has not made its case for having another dam, for requiring legislative language to protect MID during relicensing proceedings, or for having the wild and scenic designation stop at any point except 867 feet mean sea level. There is no valid reason for opposing a wild and scenic designation on all eight miles of the lower Merced. Indeed, for the past two Congresses we have had bipartisan support for designating the entire Merced River from Yosemite National Park to Lake McClure Reservoir's maximum flood control storage pool (elevation 867 mean sea level). It is time to move ahead on this legislation and provide the lower Merced with the protection it deserves.

Before I conclude, I suggest committee report language addressing one issue. Concern has been expressed that the designation of the last four miles of the river as "wild" would preclude the possibility of considering the development of rail access along the river to carry passengers between Merced, California and Yosemite National Park. While The Wilderness Society supports retaining the option to consider rail transportation to Yosemite, the present feasibility of such a railroad is speculative at best. Report language could clarify that if the railroad concept ever becomes viable and appropriate, Congress could revisit the classification of the lower four miles to accommodate the rail project.

The Merced River is a special place for many residents of California and across the country. From its origin high in Yosemite National Park it flows through some of the most scenic areas found in our land. The protection of the lower eight miles of the river will complement the actions taken by Congress four years ago to preserve this magnificent resource. I look forward to working with you on this legislation, and urge the committee to give it favorable consideration.

Should you have any questions, I would be happy to answer them.

Senator **Bumpers**. Mr. Anderson.

STATEMENT OF JAY ANDERSON, CONSULTANT AND FORMER GENERAL MANAGER, MERCED IRRIGATION DISTRICT

Mr. **Anderson**. Thank you for the opportunity to be here today. I would ask that my full statement be placed in the record along with a letter from the mayor of the City of Merced.*

As stated in my written statement, MID, if I may refer to them that way, operates an FERC hydroelectric project and as a condition of that license the district is required to operate the reservoir in accordance with rules and regulations prescribed by the Secretary of the Army. The Corps of Engineers Water Control Manual states the project—and these words are important—the spillway design flood pool extends to elevation 878.3 feet mean sea level. This is about one-half mile above elevation 867. 867 is what is known as the gross pool.

There is a diagram there that in a flood stage the river surcharges, and our problem with S. 549 as it is presently written, as I said, encroaches one-half mile into the FERC licensed project. FERC recognizes elevation 878.3 as the project boundary because we are required to pay rent on all Federal lands within the project boundary, and we are paying rent to the FERC every year in excess of $200,000, which includes the land up to elevation 878.3. The Army Corps of Engineers recognizes 878.3, because it is in their operating manual.

If S. 549 is passed in its present form, it may lock in the maximum flood control storage pool as 867 instead of 878.3, as it actually is, and if this were locked in there, we could lose 11 feet of our current storage space, and this would mean a loss of approximately 70,000 acre feet of storage, enough water to supply the needs of a city of 200,000.

In answer to Mr. Hellmann here, the MID has no plans that I know of, and I am a former manager of the district and a consultant for them, to build any project in the up waters of our present project. We have no plans for a dam up there. In fact, if we did, it would flood out the highway into Yosemite, which would be disastrous.

If we lose this 11 feet of storage space it would also severely affect our electric-generating capacity and that would affect not only Merced Irrigation District but also the County of Mariposa, who, in the successful relicensing of the project, would be a partner in the power production.

I cannot impress upon you how vital it is for MID's protection of this one-half mile of the river, and we would certainly request that the correct elevation be put in the bill, because if I were a FERC commissioner 20 years from now and they said well, if they meant 878 they would have said 878.

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* See Appendix.

I cannot understand why there is an objection to the bill stating properly the project boundary. We would ask that the bill be amended first to include the absolutely correct elevation or language in the bill to protect our interest, and I would be very happy to answer—oh, by the way, the river did surcharge into this area in 1968, so it has happened at one time.

[The prepared statement of Mr. Anderson follows:]

PREPARED STATEMENT OF JAY ANDERSON, CONSULTANT AND FORMER GENERAL MANAGER, MERCED IRRIGATION DISTRICT

Mr. Chairman and members of the subcommittee, my name is Jay Anderson. I was employed by the Merced Irrigation District (M.I.D.) from 1971 to 1984, the last eight years as General Manager. Since my retirement from full-time employment in 1984, I have been a consultant for the District on subjects relating to water rights, flood control, and financial matters. My appearance before the subcommittee today is at the direction of the M.I.D. Board of Directors, the District staff, and out of concern for the more than 100,000 farm-related residents that would be affected by the enactment of S. 549 in its present form.

The Congress in 1987 enacted legislation, Public Law 100-149, designating 71 miles of the main stem of the Merced River in California and 43 miles of the South Fork of the Merced River as components of the national Wild and Scenic Rivers System. That legislation also designated an eight-mile segment of the lower Merced River as a Wild and Scenic Study River. This lower eight miles would be designated as Wild and Scenic under S. 549.

The Merced Irrigation District questions the urgency of placing this eight-mile portion of the river into the Wild and Scenic System, particularly before the study period has expired. California is presently in the midst of a five-year drought. The directors and management of the District are presently exploring all sources of water to sustain the 155,000 acres of urban and agricultural lands within the District boundaries, as well as reliable water supply for the cities of Merced, Atwater, and Livingston. We sincerely request that the subcommittee delay action on this bill at least until the study period allocated to us in the 1987 legislation has expired.

The Merced Irrigation District operates a multipurpose water supply and hydroelectric development known as the New Exchequer Project on the Merced River. The project's principal reservoir is Lake McClure, which is impounded by Exchequer Dam. The project was licensed by the Federal Power Commission in 1964 (Project No. 2179) and currently is regulated by the Federal Energy Regulatory Commission (FERC). As a condition of the license, the project is required to be operated for flood control in accordance with rules and regulations prescribed by the Secretary of the Army. The Congress of the United States authorized, in 1964, a Federal contribution of $10,818,638 to incorporate flood control measures into the project. As reflected in the Corps of Engineers Water Control Manual (excerpt attached), the project's spillway design flood pool extends to elevation 878.3 m.s.l. The bill before the subcommittee would extend the lower end of the Wild and Scenic designation down to elevation 867 m.s.l., which the bill incorrectly describes as "the point of maximum flood control storage of Lake McClure."

The language in S. 549 would allow the Wild and Scenic status to encroach approximately one-half mile into our licensed project boundary. One of the M.I.D.'s greatest concerns is the relicensing of the project with the FERC upon expiration of the current license in the year 2014. Without a correction in the elevation, the FERC may consider itself unable to relicense the project to its present configuration, thereby causing the project to lose approximately 70,000 acre-feet of storage space. This amount of water will support approximately 30,000 acres of agricultural production or supply the domestic and commercial needs of a city of 200,000 residents. The loss of this storage space could also reduce the hydroelectric generation capacity of the Exchequer Dam powerhouse. If we are unable to relicense the FERC project in its present configuration, it would be disastrous not only to M.I.D. but also to the County of Mariposa. (Under a water rights agreement between M.I.D. and Mariposa County, the County becomes a partner in the sale of hydroelectric energy from this project upon the successful relicensing of the project.) Moreover, M.I.D.'s flood control operations would be constrained by the Wild and Scenic encroachment on our flood pool.

Mr. Chairman and members of the subcommittee, the Merced Irrigation District's concerns with S. 549 are genuine. The quality of life for the more than 100,000 residents of the District could be affected by this bill. We request, first, that you allow the full study period to run its course. The timing of the introduction of a Wild and Scenic River bill while the State of California is experiencing a five-year drought does not seem reasonable. Second, if and when a bill is considered, the Merced City Council, the Merced City and County Chambers of Commerce, the Merced County Farm Bureau, and the Association of California Water Agencies are just a few of the organizations that support the Merced Irrigation District Board of Directors, its staff and residents in seeking to correct the erroneous 867 ft. elevation stated in the bill to the proper elevation of 878.3 ft. m.s.l. We also ask that language be inserted in the bill making clear that the designation is not intended to interfere with either the New Exchequer Project's flood control operations or FERC's relicensing of the project to its present configuration upon expiration of the current license.

If S. 549 is passed in its present form, the effects on the residents of the Merced Irrigation District could be severe. On the other hand, our proposed amendments will not adversely affect the designation of Wild and Scenic to this portion of the system. We believe our requests are reasonable and just.

I wish to thank the subcommittee for the opportunity to appear before you today. We have confidence that the subcommittee will carefully consider these concerns.

NEW EXCHEQUER DAM AND RESERVOIR
Merced River, California

WATER CONTROL MANUAL

APPENDIX VII
To
Master Water Control Manual
San Joaquin River Basin, California

OCTOBER 1981

DEPARTMENT OF THE ARMY
SACRAMENTO DISTRICT, CORPS OF ENGINEERS
SACRAMENTO, CALIFORNIA

NEW EXCHEQUER DAM & RESERVOIR (Lake McClure)
MERCED RIVER, CALIFORNIA
Pertinent Data

General

Drainage Areas	
Merced River at New Exchequer Dam	1,037 sq mi
Dry Creek near Snelling	68 sq mi
Merced River at McSwain Dam	1,054 sq mi
Merced River at Stevinson	1,273 sq mi
Merced River at Mouth	1,276 sq mi
Flows at New Exchequer Dam	
Mean annual runoff (1904-1979)	971,900 ac-ft
Average flow (1904-1964)	1,340 cfs
Minimum of record	0
Peak inflow (23 Dec 1955)	101,000 cfs
Standard project peak inflow (snowmelt)	15,400
Standard project peak inflow (rainflood)	167,000 cfs
Spillway design flood peak inflow	411,000 cfs

New Exchequer Dam (Rockfill, concrete faced)

Top of parapet elevation	882 ft
Crest elevation	879 ft
Maximum height	490 ft
Length of crest	1,220 ft
Width of crest	17 ft

Dike (Rock and earth fill)

Elevation top of dike	882 ft
Maximum height	62 ft
Length of crest	1,500 ft
Width of crest	20 ft

Spillway

Gated Ogee Section	
Location	in Saddle 1 mile from right abutment
Crest Length	240 ft
Crest elevation	837 ft
Gates (Tainter)	6-40'0" x 30'0"
Ungated Ogee Section	
Crest length	1,080 ft
Crest elevation	868 ft
Total capacity (El. 878.3 ft.)	375,000 cfs

Lake McClure

Elevation m.s.l.	
Minimum power pool	660 ft
Gross pool	867 ft
* Spillway design flood pool	878.3 ft
Area	
Minimum power pool	1,900 acres
Gross pool	7,110 acres
Spillway design flood pool	7,520 acres
Storage Capacity	
Minimum power pool	173,000 ac-ft
Gross pool	1,024,600 ac-ft
Spillway design flood pool	1,107,500 ac-ft

New Exchequer Power Plant (Single Francis type unit)

Rated capacity (at 397 ft. head)	80,100 kw
Penstock diameter	16 ft
Tailwater elevation	402 ft

Outlet Works

(Single conduit under right abutment of dam)

Conduit (sections)	
Size, type, location	- 18' diameter, 383' long, concrete lined, from intake to gate chamber - Gate chamber containing two slide gates - 16' diameter steel linej penstock, downstream of gate chamber - 9' diameter bypass off penstock - 16' to 13' transition from bypass to power house
Gates	
Number, size, type, location	- 1 - 23.25' x 13.83' hydraulically operated sliding seal bulkhead gate at intake - 2 - 7.0' x 10.5' hydraulically operated slide gates in gate chamber - 1 - 108" Howell-Bunger valve controlling bypass - 1 - 13' automatically controlled butterfly valve in power house
Total Discharge Capacity	
Two slide gates	- at gross pool 24,000 cfs - at max. flood control reservation 18,300 cfs
Howell-Bunger valve	- at gross pool 9,300 cfs - at max. flood control reservation 8,600 cfs
Turbine Discharge (Max)	- 3100 cfs

McSWAIN DAM AND RESERVOIR

McSwain Dam (rockfill, earthfill core)

Crest elevation	425 ft
Maximum height	80 ft
Length of crest	1,620 ft
Width of crest	15 ft

McSwain Reservoir

Gross pool, elevation	400 ft
Gross pool, area	308 acres
Gross pool, storage capacity	9,730 ac-ft

Spillway (ungated ogee)

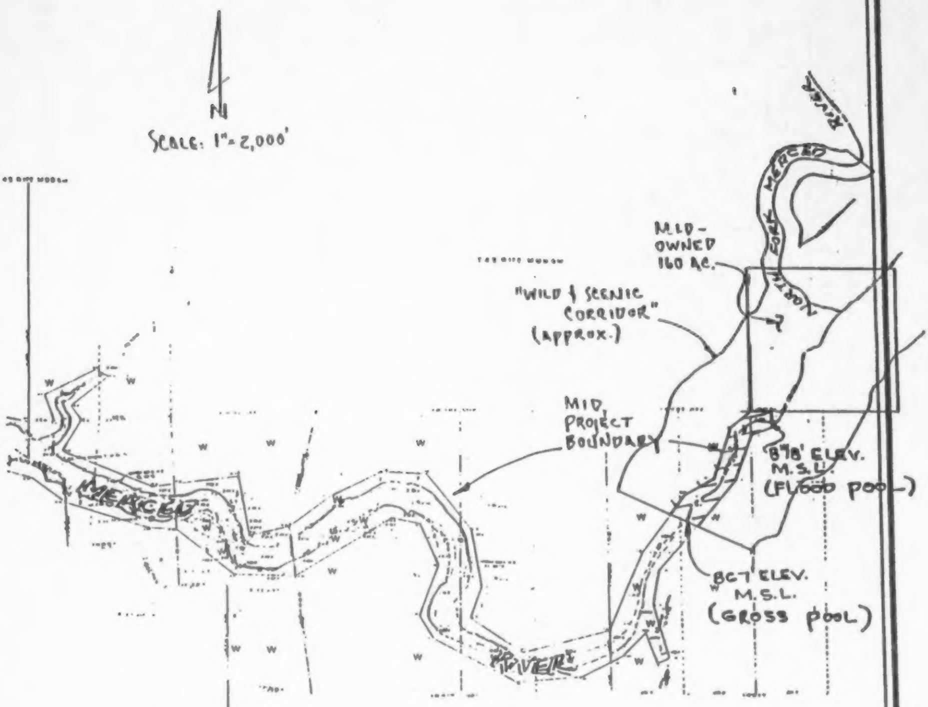
Crest elevation	400 ft
Crest length	625 ft
Discharge capacity at El. 420.0 ft.	178,000 cfs

Outlet Works

Conduit	
Size and type	- 15' diameter steel lined penstock - 8' diameter bypass
Gates	
Number, size, location	- 1 - 96" Howell-Bunger valve controlling bypass
Total Discharge Capacity	
Howell-Bunger valve	- at El. 400' 2,580 cfs

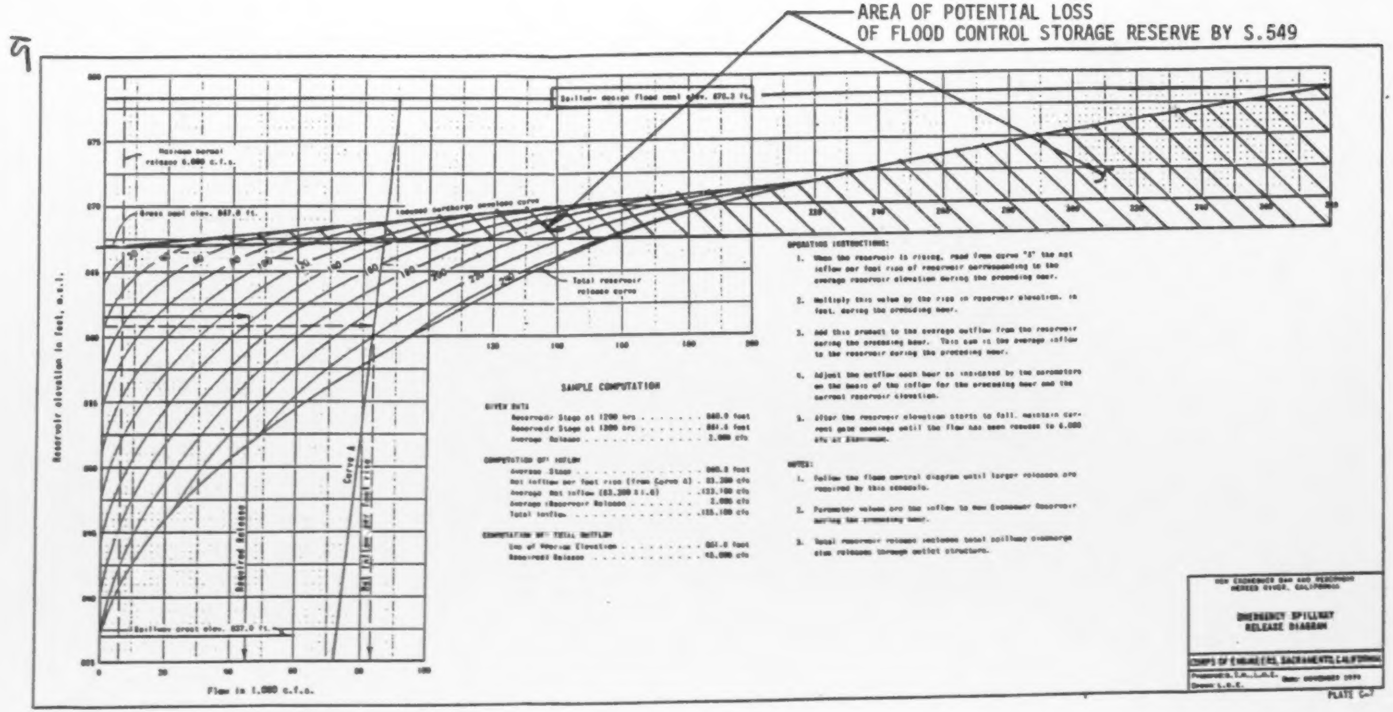
McSwain Power Plant (Single Kaplan type Unit)

Rated capacity (at 54 ft. head)	9,000 kw
Penstock diameter	15 ft
Tailwater elevation	344 ft


N
SCALE: 1"=2,000'
MID-OWNED 160 AC.
"WILD & SCENIC CORRIDOR" (APPROX.)
MID PROJECT BOUNDARY
878' ELEV. M.S.L. (FLOOD POOL)
867' ELEV. M.S.L. (GROSS POOL)
NORTH FORK MERCED RIVER
MERCED
RIVER

▨ AREA OF CONCERN

ECS III
9-13-90



OPERATING INSTRUCTIONS:

1. When the reservoir is rising, read from curve "A" the net inflow per foot rise of reservoir corresponding to the average reservoir elevation during the preceding hour.
2. Multiply this value by the rise in reservoir elevation, in feet, during the preceding hour.
3. Add this product to the average outflow from the reservoir during the preceding hour. This sum is the average inflow to the reservoir during the preceding hour.
4. Adjust the outflow each hour as indicated by the parameters on the basis of the inflow for the preceding hour and the current reservoir elevation.
5. After the reservoir elevation starts to fall, maintain current gate openings until the flow has been reduced to 6,000 cfs at [illegible].

NOTES:

1. Follow the flood control diagram until larger releases are required by this schedule.
2. Parameter values are the inflow to New Exchequer Reservoir during the preceding hour.
3. Total reservoir release includes total spillway discharge plus releases through outlet structure.

▨ AREA OF POTENTIAL LOSS OF U. S. CORPS OF ENGINEERS FLOOD CONTROL STORAGE RESERVE BY S.549.

Senator BUMPERS. Mr. Anderson, thank you and Mr. Hellmann both.

I wish I could see this area. It is always helpful to clarify issues such as this. I cannot go look at all the things we consider on this subcommittee. I wish sometimes I could make all of them. It would give me a much better perspective.

But here we are fighting over an 11-foot reservoir level, and it seems to me—and I think I understand your apprehension, Mr. Anderson. Perhaps you are more worried about what FERC is going to say in the year 2014, when you relicense, than any practical thing that is going to happen to you if this bill passed right now, is that correct?

Mr. ANDERSON. Yes, sir.

Senator BUMPERS. Now, the legislation designates—there are two terms here used to describe the same 867-foot level. The bill describes 867 feet as the maximum flood control storage. You describe it, Mr. Anderson, as the maximum gross pool. What is the difference in those two? Are they wrong when they describe the 867 feet as a maximum flood control storage?

Mr. ANDERSON. The top of the spillway gates is 867. That is a flat area. In a flood time, the river surcharges and the reservoir becomes a river, and up there that is some 30 miles above the dam, and it surcharges up to 878 and becomes a river.

Senator BUMPERS. It surcharges up—that is during sort of a flood season.

Mr. ANDERSON. Correct.

Senator BUMPERS. Does that count the amount of water that is above the spillway?

Mr. ANDERSON. Yes.

Senator BUMPERS. What is the level—how far—what would be the elevation of the pool if it were even with the spillway?

Mr. ANDERSON. 867.

Senator BUMPERS. But you are saying that at some times of the year it will exceed that by 11 percent, so you are effectively saying 11 feet of water is going over the spillway.

Mr. ANDERSON. No. It would back up.

Senator BUMPERS. Why would it back up if the spillway were there?

Mr. ANDERSON. Because it is 30 miles upstream. It is just like a river. It runs downhill then.

Senator BUMPERS. I just now understand the swelling concept.

Now, Mr. Hellmann, why is that not a legitimate concern of Mr. Anderson's?

Mr. HELLMANN. Mr. Chairman, the fear that the environmental community has is that currently the FERC licenses 865 feet. If we change it in this legislation and they go into FERC in the year 2014 for their new license they will go in and say, look at the legislation. They have established a boundary of 878. So that would give them the right to raise the dam and make the 878——

Senator BUMPERS. Raise the spillway.

Mr. HELLMANN. Their normal flood pool and then back the water even further up the river.

Senator BUMPERS. What if we were to draft language in the bill to describe precisely what we wanted to accomplish to give FERC some direction in understanding that we did not intend that, that we are simply trying to take care of a natural phenomenon, namely the swelling of the river back upstream?

Mr. HELLMANN. I think that could be accomplished in report language, which is what we did last year.

Senator BUMPERS. It would look to me like you want it in the bill instead of report language.

Mr. HELLMANN. First of all, the committee has to make a decision on whether or not they are going to continue to litter the Wild and Scenic Rivers Act with all sorts of exceptions, but the second point is, Mr. Chairman, in the year 2014 there is no guarantee that FERC is going to give the Merced Irrigation District the relicensing here. Someone else may come in and compete for that.

Senator BUMPERS. We understand that, of course.

Mr. HELLMANN. We do not want a guarantee that Merced Irrigation District necessarily is going to get the license, either.

Senator BUMPERS. I do not either. I am just trying to make sure that we clarify what we are talking about here so that—you know, so that we address Mr. Anderson's fear.

I gather from what you are saying, Mr. Anderson, as long as this is described in such a way, that this river continues during flood stage right now just as it has in the past?

Mr. ANDERSON. Yes.

Senator BUMPERS. The only reason you are asking—I am not sure we have to put 878 feet in there. As long as we accommodate your concern to make sure that we take care of what, in effect, is an 878-foot level.

Mr. ANDERSON. I would like to make one comment, Mr. Chairman. The FERC license was issued before the flood control and the Corps of Engineers got into it. That is why the FERC license says 865, or something like that.

The Corps of Engineers—by the way, the U.S. Government contributed $10 million toward this project to have this flood space reserved for them, so the Federal Government has been a party in this.

Senator BUMPERS. Well, we are not going to put anything in here, as Mr. Hellmann has suggested, that would—first of all, we cannot—we do not have—well, we do have jurisdiction over FERC here, but we are not going to try to pre-judge whether you get a new license or not. All we are trying to do is take care of your situation between now and then and let FERC know that we are not pre-judging that, and that we just want you to have what you have right now.

Mr. ANDERSON. Yes, Mr. Chairman, and I cannot see in any way satisfying our demands is going to adversely affect the Wild and Scenic Rivers portion of this.

Senator BUMPERS. Take yes for an answer, Mr. Anderson, because I am inclined to agree with you. I think Mr. Hellmann agrees with you, too, but he does not want us to do something that would indicate to FERC that we want you to relicense this at an 878-foot level.

Mr. HELLMANN. You must understand, Mr. Chairman, that by designating an end point, if the committee decides to designate 878 as the end point, we lose a one-half mile minimum of this river.

Senator BUMPERS. I do not want you to lose that one-half mile.

Senator CRAIG. That is not our intent.

Senator BUMPERS. It is not our intent to cost you the one-half mile. Our intent is to make sure that we do not jeopardize what the irrigation district has right now.

Senator CRAIG. Mr. Chairman?

Senator BUMPERS. Yes.

Senator CRAIG. Are you objecting to legislation that allows the Merced Irrigation District or any other licensed operator in the future to be able to operate the reservoir and the dam under the current conditions?

Mr. HELLMANN. No, and in fact we mentioned that last year and we recommended that committee report language be included to say that this designation would not interfere.

Senator CRAIG. If the current conditions recognize that there might be a flood swell situation that would cause the upper reaches of the water level during floods to hit 878, and that appears to have happened once, and it appears that that option has been recognized by the Army Corps and money spent accordingly—or is it Bureau of Rec?

Mr. ANDERSON. Army Corps.

Senator CRAIG. If that is the case of the current operational conditions, and that is acceptable to you, is it not reasonable, then, that we should assure that within the legislation? For here is my concern.

My concern is that if you specify 867—and I have dealt with a few reservoirs and irrigation impoundments in my time, and that becomes the upper reaches limit and you get into a swell situation, Army Corps could slip in and say open your head gates and drop your water level to assure that you never swell beyond that point, and that could ultimately end up in the new 2014 license no matter who the operator would be, which would lower the capacity or the capability of existing impoundments by X feet.

Mr. HELLMANN. Putting it that way, Senator, you could also have situations where the water could go further up the river than 878.

Senator CRAIG. That is correct.

Mr. HELLMANN. Where do we draw that line? If we are talking about extreme circumstances, acts of God, if you will, no one can control those circumstances. So where do we draw the line? Why is 878 any more valid than 890 or 882 or 865?

Senator CRAIG. For the very reason that I have just stated. If you established at least a point and you can make it a point, and then you can put in acts of nature or acts of God and that appears in law—the point being the latter one, though—if you are specific to 867 and somewhere in the misty future a Federal agency relicenses, not understanding clearly congressional intent, and they insist that the license read that you cannot get beyond 867 in a flood situation, then you have for all intents and purposes reduced the capability of this impoundment.

Somehow you and I, or all of us, ought to be creative enough to assure current operating, and that is all we are interested in.

Mr. HELLMANN. That is agreed.

Senator CRAIG. That ought to be in the law and not in the report language.

Senator **Bumpers**. Mr. Hellmann, listen to this language that we placed in the colloquy last year. Senator Cranston, who is the author of this bill now, entered into this colloquy, and I will not read it all, but Mr. Cranston said that "Merced Irrigation District has expressed concern about the effect of this designation on its New Exchequer Dam project which forms Lake McClure Reservoir.

"As the sponsor of the companion Senate bill, it is not my intention that this legislation in any way affect the continued operation and maintenance of the New Exchequer project, including flood control operations. Neither is it my intention to affect the Federal Energy Regulatory Commission's authority to relicense the project as presently configured when the current license expires."

That is essentially okay, is it not?

Mr. **Hellmann**. Essentially.

Senator **Bumpers**. We can work this out. Do you have anything else, Larry?

Senator **Craig**. No.

Mr. **Anderson**. Senator Craig, I see you have had experience in reservoirs, and I think you stated exactly the way that I would like to have stated it, that this elevation gets left in and we can lose 11 feet of our reservoir very, very easily.

I would like to point out the bill reads "the main stem from a point 300 feet upstream at the confluence of Bear Creek, downstream to a maximum flood pool of Lake McClure at elevation 867."

That is not the maximum pool, that is the surface pool, that the proper language really should be, if this bill were correct, "the main stem from a point 300 feet upstream of the confluence at Bear Creek downstream to a maximum flood pool of Lake McClure elevation 878.3" would be properly described.

Mr. **Hellmann**. But if that language is used, that deletes a one-half mile of the river from the Wild and Scenic designation, and that has to be understood by this committee. That is the objection we have to using that language, because that language was presented to us last year.

Senator **Craig**. Mr. Hellmann, let us go back to that point. We are talking about a stretch of river that is basically, if you will, back field to their needs during unique situations, but outside of those unique situations, when once every 30 or 40 years it might get flooded, you want it designated Wild and Scenic and you want to be assured that it remain in its current status. That is your intent?

Mr. **Hellmann**. Right.

Senator **Craig**. Well, under the current status of Wild and Scenic the Merced Irrigation District needs the flexibility to use it as a back field, if you will.

Senator **Bumpers**. If I understand this—and I am not a westerner, so I do not have all that much experience with these things, but if we use—first of all, Mr. Anderson, we want you to have exactly what you have right now, no more, no less.

Mr. **Anderson**. I appreciate that.

Senator **Bumpers**. If we put 878 in and that has the effect of saying that we are going to back this reservoir up a one-half mile further than we would otherwise back it up, then you are effectively saying you cannot designate that one-half mile as a Wild and Scenic River because you are raising the pool level so that you eliminate that as a free-flowing stream.

If you say, on the other hand, that you can continue to do exactly what you are doing right now at 867 feet, even though we all know that episodically that is going to back the river up to a one-half mile into the river, it still does not affect the Wild and Scenic Rivers designation. Is that a fair statement, or not?

Mr. HELLMANN. That is right.

Senator BUMPERS. Did you understand what I was saying?

Mr. HELLMANN. Yes.

Senator BUMPERS. Did you, Mr. Anderson?

Mr. ANDERSON. Yes. The project boundary—you see, we have to reserve 100 feet above the reservoir. The project boundary is 878, understood by FERC, and it is understood by the Corps of Engineers, and we are just trying to protect what we presently have right now.

Senator CRAIG. Mr. Chairman, let me reverse it, because the picture becomes a bit clearer all the time.

If we would establish the Wild and Scenic boundaries at 878.3, specific, but say that everything between 867 and 878.3 will be managed as Wild and Scenic also under the authority of Army Corps——

Senator BUMPERS. BLM.

Mr. ANDERSON. It is BLM land.

Senator CRAIG. I understand what you are saying. You are very fearful that if you do not get an opportunity to move that boundary line down to static pool or high level pool—well, first of all there has got to be all kinds of restrictions about building in flood plains and changing circumstances within that flood plain situation, but I guess I can understand your concern.

But I can clearly understand the concern that if you move that Wild and Scenic boundary down to 867 the alarm, then, that an irrigation district has or that this water management entity has that at some point in the future you have in essence taken 11 feet of the top of a reservoir, I can clearly understand that.

Senator BUMPERS. And Mr. Anderson is concerned that at that point BLM or whoever administers the Wild and Scenic River comes in and says look, you have got to let your gates open. You are one-half mile up into the Wild and Scenic River. That is your fear, is it not?

Mr. ANDERSON. We cannot operate the project as it presently is with this 867 in the bill.

Senator BUMPERS. Well, I am going to ask Senator Craig and his staff—I will ask his staff to join with the subcommittee staff and see if we cannot draft language that will be mutually satisfactory. It seems to me that everybody is talking about the same goal here.

Senator CRAIG. We have got to overlap some authority lines.

Mr. HELLMANN. It is my understanding, Senator, that right now there is nothing under FERC regulation that would stop them from allowing water to flow into a Wild and Scenic stretch during an extreme flood. That may happen once every 10 years.

Senator BUMPERS. Yes, but he has a fear about that. He has a fear that if you designate the first one-half mile as Wild and Scenic that Wild and Scenic is going to take precedence over his concern, and so what we need to do is make certain that his fears are addressed but that we get the extra one-half mile designated. It is not going to change the operation of either one one iota.

Senator CRAIG. In the hydraulics of water, you take 11 feet off the top of a reservoir and you might as well shut down the operation of it. That is the storage capacity. The top is a heck of a lot more important than the bottom, but by drawing lines in the wrong places you relegate them to the bottom half of their water capability instead of the top half, and when you do that you eliminate them.

Mr. HELLMANN. Mr. Chairman, I think it is—I am sorry, Senator, it is important to remember, though, that in 20 years of operation—I will take Mr. Anderson's word for it that this has happened once. I have been told that it has not happened at all during the 20 years, but I will take his word for it. We cannot prepare for every contingency that may happen.

Senator CRAIG. That is where you are entirely wrong. Every piece of Federal legislation we get involved in when we deal with flood plains and flood plain problems, we are always looking for the 100-year flood circumstance, absolutely.

Mr. HELLMANN. In that circumstance, though—once again I go back to my comment, where do you draw the line? Is it at 878, 880?

Senator CRAIG. We are going to try to draw a line that you can both live with.

Senator BUMPERS. Gentlemen, thank you both very much. We will stand adjourned subject to the call of the Chair.

[Whereupon, at 4:03 p.m., the hearing was adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

CITY OF TUCSON,
OFFICE OF THE MAYOR,
Tucson, AZ, March 13, 1991.

Hon. J. BENNETT JOHNSTON,
Chairman, Energy and Natural Resources Committee, U.S. Senate, Washington, DC.

DEAR SENATOR JOHNSTON: On behalf of the City of Tucson, I am pleased to add our voice to the many in Southern Arizona supporting expansion of the Rincon Mountain Unit of Saguaro National Monument. This proposal is consistent with City plans and policies promoting open spaces and resource preservation. In particular, our adopted General Plan encourages the preservation of significant natural areas and promotes the establishment of federally managed wildlife preserves.

I urge that you give favorable consideration to the inclusion of the lands within the enhanced monument boundary into the eastern unit of the Saguaro National Monument. This area is truly a national treasure and one that is extremely worthy of preserving for the entire nation's enjoyment.

Sincerely,

THOMAS J. VOLGY, *Mayor.*

PIMA COUNTY BOARD OF SUPERVISORS,
Tucson, AZ, March 13, 1991.

Hon. DALE BUMPERS,
U.S. Senate, Washington, DC.

DEAR SENATOR BUMPERS: The Pima County Board of supervisors unanimously approved the enclosed Resolution 1990–118 endorsing a proposal to expand the boundaries of the eastern unit of the Saguaro National Monument.

This expansion is supported by all interest groups in Southern Arizona and endorsed by the following:

- Sierra Club
- Pima Trails Association
- Conservation Foundation, Division of World Wildlife Fund
- Wilderness Society
- National Parks and Conservation Association
- City of Tucson
- Many local environmental activists

The stand of saguaro cacti inhabiting these foothills is equal to, if not finer than, those included within the present Saguaro National Monument boundary. This area is an exceptionally rich area of Sonoran Desert Uplands.

Please give favorable consideration to the inclusion of the lands within the Enhanced Monument Boundary into the eastern unit of the Saguaro National Monument.

Sincerely,

REG T. MORRISON,
Chairman of the Board.

[Enclosure.]

A Resolution of Pima County Board of Supervisors Endorsing a Proposal to Expand the Boundaries of the Saguaro National Monument

RESOLUTION 1990–118

WHEREAS, a coalition of local and national environmental organizations has recommended the enlargement of the boundaries of the eastern unit of the Saguaro National Monument; and

WHEREAS, the Saguaro/Palo Verde habitat of the foothills of the Rincon Mountains bordering the southern side of the Monument is an exceptionally rich area of Sonoran Desert uplands; and

WHEREAS, the stand of saguaros inhabiting these foothills comprises a particularly excellent, healthy, and multi-aged stand that is not only one of the finest in the region, but rivals or even exceeds the quality of stands presently featured within the Monument; and

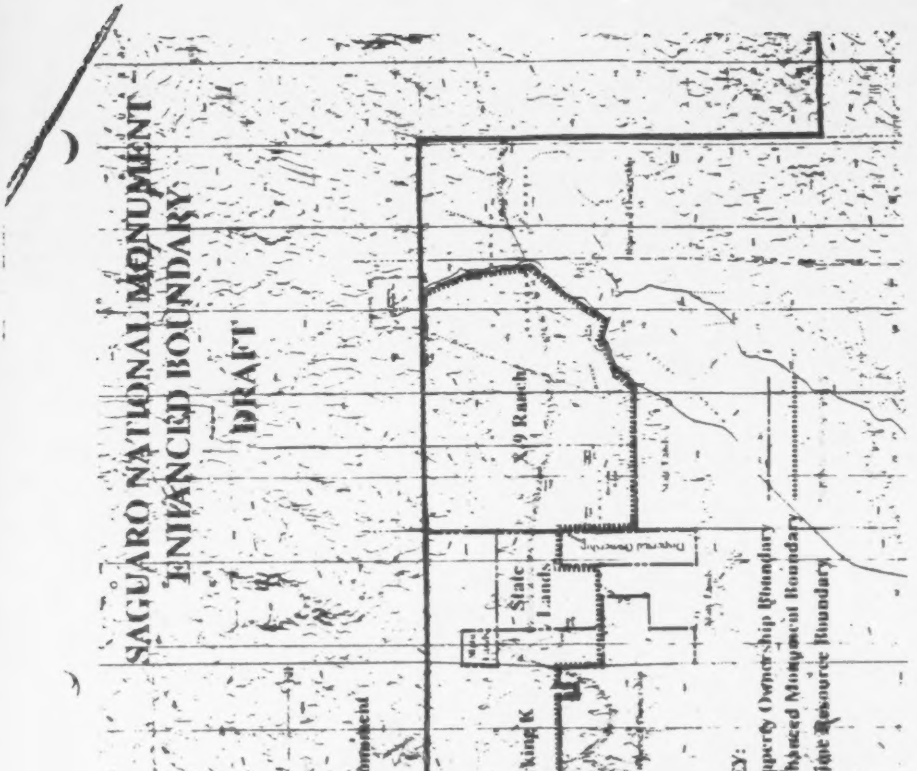
WHEREAS, on June 5, 1990, the recommendation of the Sierra Club, the Pima Trails Association, the Conservation Foundation, the Wilderness Society, the National Parks and Conservation Association, and local environmental activists to expand the Saguaro National Monument was transmitted to Arizona's Congressional delegation; and

WHEREAS, a number of Arizona's Congressional delegates have sought the views of the National Park Service concerning the propriety and wisdom of expanding the eastern unit of the Saguaro National Monument; and

NOW, THEREFORE, be it resolved that the Board of Supervisors of Pima County, State of Arizona, hereby recommends the inclusion of the lands within the Enhanced Monument Boundary into the eastern unit of the Saguaro National Monument.

BE IT FURTHER RESOLVED, that the Clerk of the Board of Supervisors of Pima County be directed to immediately transmit this Resolution to the Director of the National Park Service and to Arizona's Congressional delegation.

Passed and adopted this 17th day of July, 1990, by the Pima County Board of Supervisors.


SAGUARO NATIONAL MONUMENT
ENHANCED BOUNDARY
DRAFT
Saguaro National Monument
X-9 Ranch
State Lands
Rocking K
Rocking K
State Lands
KEY:
Property Ownership Boundary
Enhanced Monument Boundary
Prime Resource Boundary
North
May 16, 1990

March 11, 1991.

Hon. Dale Bumpers,
Senate Energy and Natural Resources Committee, U.S. Senate, Washington, DC.

Dear Senator Bumpers: On behalf of the Saguaro National Monument East Expansion Coalition, I am writing to ask your support of S. 292, a bill to expand Saguaro National Monument East, sponsored by Senator John McCain of Arizona. This bill has the wholehearted support of many environmental groups, the landowners affected, the City of Tucson and Pima County.

The main concern of our coalition is in preserving an area rich in biological resources. An environmental study has been conducted, and it was found that large multi-aged stands of saguaro cacti are located here, as well as large stands of palo verde, mesquite and cottonwood. Several species of wildlife are either on the endangered list or nearing it, including the desert tortoise and gila monster. This 3,540 acres will soon be developed if the Monument is not expanded and an environmental treasure of national significance will be lost.

Many months of research and community volunteer work have gone into this effort. We encourage you and your fellow committee members to give careful consideration to S. 292 and then to send it out of committee with an enthusiastic vote of passage.

Thank you for your support. We are eager to lend any further assistance if needed. Please do not hesitate to call.

Sincerely,

Jan Nathanson,
Coalition Coordinator.

McSwain Union Elementary School District,
Board of Trustees,
Merced, CA, March 12, 1991.

Statement for the record:

McSwain is a rural unincorporated community just west of Merced, California. Over the last few years it has moved more swiftly to a rural residential area where once it was solely agricultural in make up. McSwain School is a one school, K-8 district which has served the families of the community for many generations. The quality of education has always been outstanding and most people move into the community because of the school.

The McSwain Community continues to experience growth at a rate that is impacting the school. New housing is developing more quickly than ever anticipated and a school site is now needed to meet the needs of students brought about by growth which has been averaging near 10% the last four years. This is in excess of the county wide average of 4%. The property which is being considered is ideal because of its location, accessibility, cost, fencing and its being open level ground.

Merced County and the NcSwain School District have enjoyed many years of positive cooperation in providing recreational opportunities for the McSwain Community. This park site property will allow this mutual benefit to continue and be expanded.

The McSwain Community is very grateful to Congressman Condit and Senators Cranston and Seymour for their time and assistance in bringing this matter before the Congress. Please be assured your approval will be of a great benefit to a wide student and adult population. We thank you all for your consideration.

Sincerely,

Jim Farley,
President.
Pam Schroeder,
Doug Beames,
Frank Fagundes,
Chuck Mook.

Prepared Statement of Arthur G. Baggett, Jr., on Behalf of the Board of Supervisors, County of Mariposa, CA

Mr. Chairman, unfortunately I am unable to address the committee in person today, but thank you for the opportunity to provide written testimony on behalf of the Board of Supervisors of the County of Mariposa in support of S. 549 as introduced by Senator Cranston.

On April 24, 1990, the Mariposa County Board of Supervisors (Resolution 90-213) and the Mariposa County Water Agency (Resolution 90-5) unanimously endorsed S. 2555 which passed the Senate last year. We continue to support S. 549 now before the committee. These resolutions are the culmination of the County's responsibility to find an adequate supply of domestic water for the citizens of Mariposa (the Saxon Creek Project), while meeting the intent of Congress when it designated the Lower Merced as a study river in 1987 to give the County time to design a water project that would be compatible with the requirements of the Wild and Scenic River system.

In the interest of brevity, I will not outline the numerous attributes and particulars of why the Lower Merced River is worthy of inclusion into the Wild and Scenic system. Senators Wilson and Cranston articulated the case fully in 1987 when your committee heard testimony on S. 275. Their testimony is more valid today with the ever-increasing rate of growth both in California (2.8% annually) and Mariposa County (5.5% in 1989). To quote Senator Wilson's 1987 testimony, "It is appropriate to act now to preserve and protect what tomorrow's generations are entitled to enjoy."

The Board of Supervisors considered the proposed steam locomotive from Bagby to El Portal which would require altering the Wild designation of the lower section. While we would like to see a transit system developed to Yosemite, we believe that it is a far more complex issue than the current train proposal addresses. Any future proposal will require extensive environmental review not only for the proposed route but for its impact on the total visitation potential on Yosemite National Park. Congress will be heavily involved in both of these issues. The Board has taken no action to change its unanimous support of S. 549 as introduced.

While we support the mineral withdrawal section of the bill, the Board of Supervisors would like the Committee to consider report language that would make it clear that the portion of the bill that addresses mineral withdrawal within the high water area of the river is not intended to place requirements other than those currently existing on legitimate mineral projects outside of the proposed designation boundaries.

The Board would also like the committee to consider clarifying the fact that this designation would not interfere with relicensing of the New Exchequer Dam in the year 2014 or its operation by the Merced Irrigation District.

This bill makes certain that the Lower Merced River will be there for the public to enjoy, while providing consistently high-quality water for the people of Mariposa. It takes a big step toward striking a balance between the use of natural resources and protecting the environment.

Mr. Chairman, I urge you and the members of the committee to pass S. 549 to grant the Lower Merced River the protection it fully deserves.

ATTACHMENT A

MARIPOSA COUNTY
BOARD OF SUPERVISORS

AGENDA
ACTION FORM

DATE: April 24, 1990
AGENDA ITEM NO. RAC

DEPT.: BOARD OF SUPERVISORS **BY:** ARTHUR G. BAGGETT, JR. **PHONE:** 966-3622

RECOMMENDED ACTION AND JUSTIFICATION:

A resolution in support of "A BILL" introduced by MR. CONDIT of the HOUSE OF REPRESENTATIVES for enactment by the SENATE and HOUSE OF REPRESENTATIVE of the UNITED STATES OF AMERICA to amend the *Wild and Scenic Rivers Act* by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board has agressively supported wild and scenic legislation for the Lower Merced River in California for many years. This *BILL* is necessary for approval of Saxon Creek Water Project.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Saxon Creek Water Project would be delayed.

COST: (x) Not Applicable
A. Budgeted current FY $____
B. Total anticipated costs $____
C. Required add'l funding $____
D. Source: ____

SOURCE: ( ) 4/5ths Vote Required
A. Internal transfers $____
B. Unanticipated revenues $____
C. Reserve for contingncy $____
D. Description: ____
Balance in Reserve for Contingencies, if approved: $____

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:
letter with BILL (4 pages)

NOTE: This material also on
under WATER AGENCY

CLERK'S USE ONLY:
Resolution No. 90-213
Ordinance No. ____
Vote: Ayes: 5 Noes: ____
Absent: ____ Abstained: ____
[✓ Approved] ( ) Denied
(X) Minute Order Attached

The foregoing instrument is a correct copy of the original on file in this office.
DATE: ____
ATTEST: MARGIE WILLIAMS
Clerk of the Board of Supervisors
County of Mariposa, State of Calif.
By: ____
Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:

This item on agenda as:
X Recommended
____ Not Recommended
____ For Policy Determination
____ Submitted with Comment
____ Returned for Further Action

Comment: ____

A.O. Initials: ____

Action Form Revised 12/89

ATTACHMENT B

MARIPOSA COUNTY
BOARD OF SUPERVISORS

AGENDA
ACTION FORM

DATE: April 24, 1990
AGENDA ITEM NO. 8-B

DEPT.: WATER AGENCY
BY: ARTHUR G. BAGGETT, JR.
PHONE: 966-3622

RECOMMENDED ACTION AND JUSTIFICATION:
WATER AGENCY

A resolution in support of "A BILL" introduced by MR. CONDIT of the HOUSE OF REPRESENTATIVES for enactment by the SENATE and HOUSE OF REPRESENTATIVE of the UNITED STATES OF AMERICA to amend the *Wild and Scenic Rivers Act* by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board has agressively supported wild and scenic legislation for the Lower Merced River in California for many years. This *BILL* is necessary for approval of Saxon Creek Water Project.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Saxon Creek Water Project would be delayed.

COST: (x) Not Applicable
A. Budgeted current FY $________
B. Total anticipated costs $________
C. Required add'l funding $________
D. Source: ________

SOURCE: ( ) 4/5ths Vote Required
A. Internal transfers $________
B. Unanticipated revenues $________
C. Reserve for contingncy $________
D. Description: ________
Balance in Reserve for Contingencies,
if approved: $________

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:
letter with BILL (4 pages)

NOTE: THIS MATERIAL ALSO ON
UNDER BOARD OF SUPERVISORS

CLERK'S USE ONLY:
Resolution No. WA 90-5
Ordinance No. ________
Vote: Ayes: 5 Noes: ____
Absent: ____ Abstained: ____
(✓) Approved ( ) Denied
(✓) Minute Order Attached

The foregoing instrument is a correct copy of the original on file in this office.
DATE: ________
ATTEST: MARGIE WILLIAMS
Clerk of the Board of Supervisors
County of Mariposa, State of Calif.
By: ________
Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:

This item on agenda as:
✓ Recommended
____ Not Recommended
____ For Policy Determination
____ Submitted with comment
____ Returned for Further Action

Comment: ________

A.O. Initials: ________

Action Form Revised 12/89

[Attachment C]

The Merced River designation is not intended in any way to interfere with the operation, maintenance or replacement of the Merced Irrigation District's New Exchequer Project. Licensed under the Federal Power Act as FERC Project No. 2179, including the relicensing of the project to the Merced Irrigation District at the expiration of existing license. This intention not to interfere or in any way impair the project includes flood control operations of the project which under extreme conditions could surcharge the reservoir to approximately the 880 ft./m.s.l. elevation.

Resolution Adopted by the California Recreational Trails Committee

RESOLUTION 90-03

WHEREAS, the California Recreational Trails Committee has been appointed by the Governor to encourage expanded trail opportunities in California; and

WHEREAS, the Committee supports the preservation and development of scenic corridors and the development of trails as a means of expanding recreational and alternative transportation opportunities and improving the quality of life; and

WHEREAS, the Merced River corridor is of outstanding visual character and contains important riparian areas; and

WHEREAS, the Merced River Trail would connect Yosemite National Park with the great central valley generally following the river; and

WHEREAS, the Merced River Train would provide recreational opportunities for bicyclists, hikers, equestrians and boaters; and

WHEREAS, Congressman Condit has introduced H.R. 4687 and Senator Cranston has introduced S. 2555 which would designate the lower Merced River as a component of the National Wild and Scenic Rivers System; and

WHEREAS, these bills would direct the Secretary of the Interior to administer the river from a point 300 feet upstream of the confluence with Bear Creek downstream to a point 300 feet west of the boundary of the Mountain King Mine as recreational, and the area immediately downstream to the maximum flood storage of Lake McClure as wild; and

NOW, THEREFORE, BE IT RESOLVED, that the California Recreational Trails Committee support the provisions of H.R. 4687 and S. 2555 to protect this valuable corridor for train and other public uses compatible with the Wild and Scenic River Designation.

Prepared Statement of Eric J. Erickson, Chairman, Mariposa County Water Agency

Mr. Chairman and Honorable Members of the Subcommittee. I am Mariposa County Supervisor Eric Erickson, Chairman of the Board of Directors of the Mariposa County Water Agency. I am a life-time resident of Mariposa County and am now beginning my fourth term in office. Please accept my written testimony as Chairman of the Mariposa County Water Agency in support of S. 549.

In 1960, Mariposa County and the Merced Irrigation District (M.I.D.) settled a dispute of water rights arising out of M.I.D.'s filing for unappropriated water of the Merced River originating in Mariposa County. This settlement stipulates that M.I.D. will not dispute

> ". . . depletion of stream flow in the quantities set forth in subparagraphs (a), (b) and (c) by future appropriations of water for reasonable beneficial use within Mariposa County; provided such future appropriations shall be initiated and consummated pursuant to Law.
>
> (a) From the South Fork of the Merced River a maximum of 500 cubic feet per second of water not to exceed a total of 112,000 acre-feet annually by direct diversion to beneficial use and/or by diversion to storage to be later applied to beneficial use . . ."

Since 1960, Mariposa County has committed a great deal of time and money to study our present and future water requirements. Presently, a project is under way to provide a dependable water supply to Mariposa County. Water will be removed from the Merced River to the Mariposa Public Utility District in the township of Mariposa. This project is known as the "Saxon Creek Project" and is permitted in the Bill before you today.

In the past, considering the agriculture and tourism base of the county, coupled with a small population, water projects for the benefit of the county involving the waters of the Merced have not been feasible. Mariposa County now supports a residential population of over 15,000. Between the 1970 and 1990 National Census, Mariposa County grew by 28.8%.

In 1980, the Mother Lode counties, including Mariposa County, represented 1.66% of the total population of the State of California. The California State Department of Finance, Population Unit, has projected by 1990 the Mother Lode counties of the State of California will represent 2.15% of the total population of the State of California. It can easily be seen that a rise from 1.66% to 2.15% of the total population of the State of California is a significant population increase. In addition to the population growth, in 1990 approximately 3,200,000 persons visited Yosemite National Park, with 4,000,000 projected for 1991. Of those approximately 3,200,000 persons, approximately 1,200,000 traveled through the populated areas of Mariposa County via Highway 140. Each of these visitors taxes the water resources of the County. Water is our most severely limiting factor.

We ask that you adopt this Bill in its present form to allow Mariposa County to best utilize our limited basic resources for the benefit of all present and future residents of Mariposa County.

PREPARED STATEMENT OF STAN WEIDERT, SIERRA CLUB, CALIFORNIA

Mr. Chairman and Honorable Members of the Subcommittee: It is with considerable pleasure that the Sierra Club presents this testimony before the Subcommittee in support of S. 549.

The Sierra Club has been actively working on the protection of the Merced River Canyon—the "Gateway to Yosemite"—for many years. The Sierra Club has been actively supporting wild and scenic river designation of the Merced's Canyons since 1983. This bill represents the culmination of those long efforts.

The passage of S. 549 (coupled with the 1987 wild and scenic river designation of the upper Merced and its South Fork) will do much to preserve the integrity of the Merced River, protect the wilderness values of the Merced River Wilderness Study Area, and establish Congressional recognition that unrestricted mining under the 1872 mining law is not the best use of this intensively viewed and used narrow river corridor.

Sierra Club members from throughout California and the United States have worked many long hours to make the passage of this bill possible. This bill is a tribute to their efforts.

In a recent correspondence with the National Park Service the Sierra Club joined with other environmental organizations in stating that we believe consideration of the rail option (to Yosemite) should continue, because of environmental concerns regarding transportation to, from and within Yosemite National Park, which may require the consideration of a rail option from the Central Valley to Yosemite. Comprehensive studies of potential right-of-way corridors and their environmental impacts and tradeoffs have not yet begun, and, given the embryonic state of the public discussions of this matter, it is premature to identify the environmentally best route, specific development proposal, or right-of-way grant that might be used. In view of these circumstances, the Sierra Club recognizes, that Congress may wish to use report language regarding the possible future consideration of a grant of right-of-way along the Merced River, if the rail concept here should ever become appropriate as the best environmentally viable alternative.

The Sierra Club urges the Subcommittee to support S. 549.

PREPARED STATEMENT OF RONALD M. STORK, ASSOCIATE CONSERVATION DIRECTOR, FRIENDS OF THE RIVER

Mr. Chairman and Members of the Subcommittee: My name is Ronald M. Stork, Associate Conservation Director of Friends of the River, a statewide river conservation group with over 10,000 members. The inclusion of the Merced River in the National Wild & Scenic River System has been a major focus of our efforts for over half a decade. We are very pleased to support S. 549.

The Canyons of the Merced River are clearly a national treasure. Like many of you, I received my first breathtaking introduction to their beauty when I visited Yosemite National Park for the first time as a wide-eyed child. That appreciation has only grown with time.

BRIEF HISTORY OF THE LEGISLATION

This Subcommittee has shared in that wonder and reviewed the many hard, practical details of designation of the lower Merced River before—early in the 100th Congress. While this Subcommittee, and the U.S. Senate as a whole, passed legislation designating the lower Merced River in 1987, the House of Representatives chose to delay action until the effect of the designation of the lower Merced River on Mariposa's potential water supply development options could be clarified.

During the intervening years, friends of the Merced River and the federal land management agencies have been working intently with early opponents of wild and scenic river designation of the river to reach an accommodation with their concerns. The legislation passed by the House and Senate on the last day of the 101st Congress is a reflection of those years of effort.

Unfortunately, the legislative effort of the 101st Congress came to naught as the final Senate action came after the House of Representatives had adjourned sine die. (The final Senate action also inadvertently acted on an earlier version of the bill than the final version that the House and Senate voted on earlier in the day.) Introduced in the 102nd Congress, S. 549 is the same bill that both the House and the Senate voted to support last year in the 101st Congress.

SUPPORT FROM FEDERAL LAND MANAGERS

Designation of the lower Merced River has been supported by the National Park and Forest Service and the Bureau of Land Management for almost 4 years, beginning with the publication of the Sierra National Forest's Draft Land and Resource Management Plan in September of 1986. Last year, the BLM appeared before this Committee and supported the wild & scenic designation of the lower Merced, and we anticipate similar support in this Congress.

Public support for wild and scenic designation of the Merced River has been sustained for many years, and was the near universal response to the planning efforts of the Sierra National Forest and the Bureau of Land Management. This issue is now so ripe that an integrated wild & scenic river management plan for the upper and lower Merced River has already been issued in draft form, undergone public comment, been finalized, and will be published by the Bureau of Land Management this week. The BLM should be strongly congratulated for its aggressive management planning work on the Merced—normally management plans are completed three years after designation. The BLM has already made significant recreational improvements and land acquisitions in the area in recent years, and that process is continuing; with the President's Land & Water Conservation fund budget for 1992 including $100,000 for the Merced River.

The Forest Service (which manages none of the lands in this bill) will be finalizing its wild & scenic river management plan for the portions of the river designated in 1987 in the next few months. Although the BLM's final "wild & scenic" river study report has been ready for over a year, its formal publication has been postponed until August because of unrelated delays in the publication of the Sierra National Forest's Final Land and Resource Management Plan where the BLM study was to appear.

MINING WITHDRAWAL

Friends of the River strongly supports the mineral withdrawal provisions of this bill. This is an essential part of the BLM's wild and scenic river management plan, and is strongly supported by most visitors to the canyon (at least one mining operation has threatened to excavate an entire BLM public campground and the adjoining beach in a potential mining operation on their claims). We believe that the BLM's proposed plan to allow gold panning and dredging under its Special Recreation Permitting Regulations more appropriately accommodates the intense public recreational use and natural resources near the river than does the largely unregulatable mining activities that is permitted under the 1872 mining law.

SAXON CREEK PROJECT

Friends of the River supports the language in S. 549 that recognizes the Secretary's authority to permit Mariposa's Saxon Creek project if it meets the standards of section 7 of the National Wild and Scenic Rivers Act and other applicable law. We believe that this project is capable of meeting those standards, and we understand that the Bureau of Land Management after reviewing the preliminary project plans shares that view.

MERCED IRRIGATION DISTRICT CONCERNS

We understand that the existing licensee of the New Exchequer Dam and Reservoir, the Merced Irrigation District, may be appearing before this Committee to oppose this bill. It may wish to do so for two reasons: one because of the mistaken belief that this bill would somehow legally prevent the District from using its spillway during flood operations, two because of an accurate understanding that this bill would preclude the District from constructing additional facilities that would inundate all or part of the Merced River above Lake McClure Reservoir.

S. 549 does not interfere with flood control operations at Lake McClure Reservoir, nor its routine operations, maintenance, or the relicensing of the facility by FERC. This intent was expressed in the Report language that created the lower Merced River Wild and Scenic Study River in 1987 and the House Report in 1990. We would support the continuation of such clarifying Report language.

The language and intent of S. 549 is consistent with the BLM's study report recommendation that the wild & scenic river corridor end at the elevation of New Exchequer Dam's normal maximum storage pool (867). There has to be a policy on where you draw the line between a reservoir and wild and scenic river. The lip of an ungated spillway seems to us to be the most appropriate and clearest line of demarkation, and one that does not invite future facility construction or modifications that may drown more of the river upstream. New Exchequer Dam cannot "store" or "control" water above its ungated spillway. During flood events when the ungated spillway might be used, what flows in flows out—a river of water flowing across a full reservoir. Nor can the design height of a spillway prevent flood events from exceeding the capacity of the spillway and temporarily "encroaching" on the flood stage wild & scenic river even if the river/reservoir boundary were to be established 11.3 feet higher than recommended by the BLM and this legislation.

FERC project boundaries are in general an inappropriate demarkation. They are not established merely to define the boundaries of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works that would be prohibited from licensing under the Federal Power Act by section 7(a) of the Wild and Scenic Rivers Act, but for other purposes such as [including] within the project boundary enough land to assure optimum development of the recreational resources of the project. (18 CFR § 2.7) And this is not the first time that this issue has been visited. On the nearby Tuolumne River (designated in 1984); the wild & scenic river boundary also lies uneventfully within the FERC project boundary and the temporary flood "surcharge" elevation of a fully used ungated spillway. The owners of giant FERC licensed New Don Pedro Dam have apparently rightly concluded that wild & scenic river bills designate rivers and do not interfere with the operations of reservoirs.

The District may also argue that it needs to keep its options open to be able to construct additional storage on the Merced River. Such options, of course, are meant to be foreclosed by wild & scenic river designation. Preservation of this precious river and its surrounding lands is why Friends of the River and the federal land managers support this legislation.

The Committee should also note that additional water yield from the Merced is unlikely to be large or cost effective. The District's present storage capacity at Lake McClure Reservoir is equal to the average annual flow of the river. In over 20 years of operation (including years of near record runoff), New Exchequer Dam's ungated flood spillway has never spilled water. According to a long history of MID's annual reports, "[t]he District now has virtual control of the waters of the Merced River as long as such waters are put to beneficial use, and it is assured of an adequate irrigation supply for the foreseeable future."

The Merced Irrigation District already inundates 32 miles of the Merced River behind New Exchequer and McSwain Dams. In most years, the District alone diverts approximately 3/5ths to 2/3rds of the Merced's total annual flow on to Merced area farms. The balance of the river then flows down the thirsty San Joaquin River for use by Stanislaus and San Joaquin County riparian users and is eventually sucked up into the federal and state pumps in the delta for delivery to San Joaquin Valley farms and Southern California urban areas. Miraculously along the way, the Merced River below the Merced Irrigation District Dams supports the San Joaquin River's southern most salmon run. During dry periods, nearly all of the River is diverted on to District farms and little water finds its way to the San Joaquin River. District farmers are also blessed by abundant, excellent quality ground water reserves that provide a highly reliable alternative source of water when surface runoff and reservoir storage fall short of demand.

Large scale flood control on the Merced River was achieved with the construction of New Exchequer Dam. Operated in accordance with procedures developed by the

Army Corps of Engineers for a flood control reservation of 350,000 acre feet, the dam's flood space exceeds the total capacity of the original Exchequer Dam.

The most likely project that the District might be interested in building would be the Bagby Dam and Reservoir. This project was laid on the shelf by the District in the early 1960's because of poor project economics and anticipated construction difficulties with the geologic foundations of the some of the proposed dam sites. The project has never been pursued in subsequent years. The space behind the proposed Bagby Dam would be about 400,000 to 500,000 acre feet and create a reservoir bathtub ring the entire length of the Merced River that would be designated by S. 547. According to standard engineering rules of thumbs, given the presence of a large and efficient downstream storage facility, a Bagby Reservoir at half the size of McClure Reservoir would be unlikely to extract more than 7-10% more yield from the watershed—and only at a large price to the canyon it inundates and the downstream anadromous fishery.

The option of raising the existing Dam has never been seriously considered by the District. Raising the dam would be difficult, particularly if additional material has to be placed on Old Exchequer Dam—which was not designed to sustain heavy loads on its downstream face (the back of New Exchequer Dam rests on the face of Old Exchequer Dam. Raising the spillway or water level would also increase the head of water on a dam with a long history of leaks that has caused some concern about its structural integrity. If built, yield increases would be very marginal.

NORTH FORK MERCED

The Committee should also be aware that the Stanislaus National Forest has found the Merced's North Fork to be eligible but not suitable for Wild & Scenic river status in its recently published draft Land and Resource Management Plan. The BLM has not yet made any eligibility or suitability assessments for this river. The North Fork of the Merced is the heart of the lower Merced and the BLM's Merced River Wilderness Study Area. We believe that this Subcommittee should recommend designation of the North Fork as a Study River under section 5 of the National Wild & Scenic Rivers Act to provide the North Fork with the statutory interim management protection not provided rivers under agency initiated reviews. We are unaware of any significant or controversial resource protection/development conflicts that would be engendered by such interim protection. Furthermore, the North Fork's inclusion in section 5 will facilitate the coordinated review of this river now managed by these two federal agencies.

LOWER MERCED RIVER TRAILS AND TRANSPORTATION CORRIDORS

We note that last year, the Governor's Recreational Trails Committee endorsed the creation of a bicycling, hiking, equestrian, and boating trail through the lower Merced River Canyon and endorsed last year's legislative efforts as consistent with that goal. We appreciate that support and commend the Trails Committee for that action.

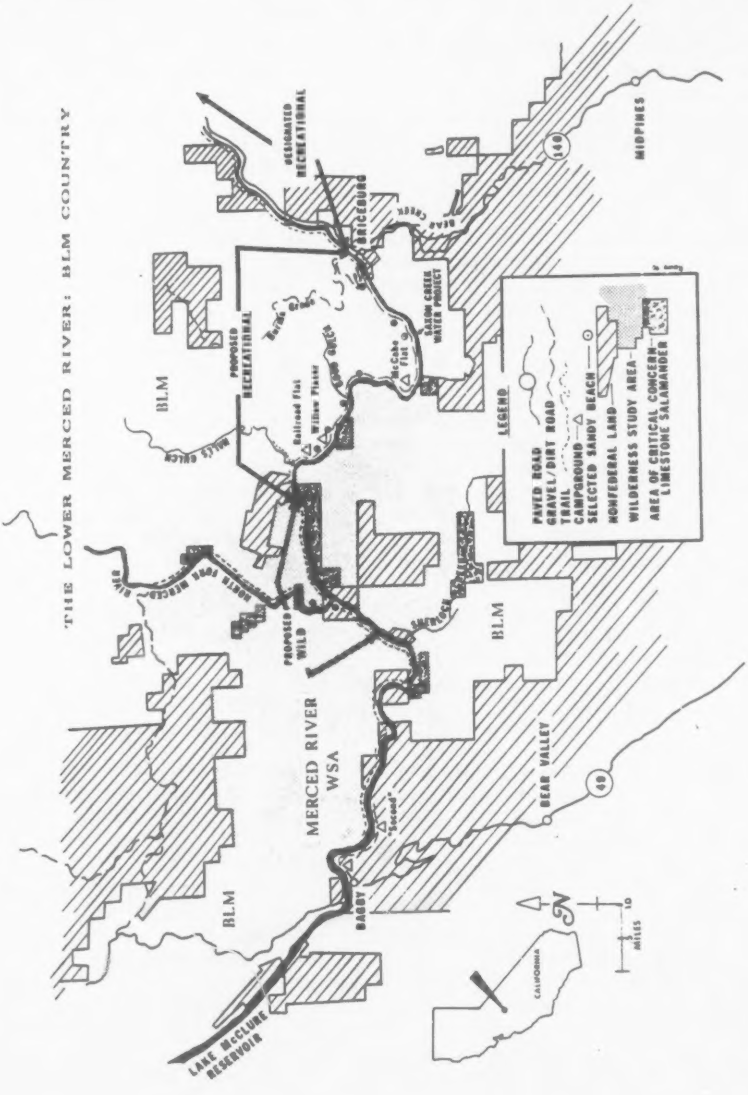
Last year, the Subcommittee heard testimony from individuals interested in promoting large dams and regional transportation corridors within the canyons of the Merced River. Although much could be said about this subject, several things are certain: there is little current interest in California's large community of water development districts in building new dams on the lower Merced River; and any associated rail developments within the canyon are viewed as very expensive, and/or of dubious practical utility by most knowledgeable rail transportation advocates in California. Moreover, scarce state and federal transportation dollars are much more likely to be spent to serve high density urban areas than rural areas such as Yosemite National Park. We also note (as does the BLM in their wild & scenic river management study) that many of these hypothetical transportation scenarios could degrade existing wild and scenic river values and recreation opportunities within the river canyon (not to mention the wilderness and wild and scenic values of the lower Merced River Canyon or its Recreational Trail).

THANKS

Finally, we want to thank Senator Alan Cranston for his long interest and support for the Merced River canyons. His support along with former local Congressmen Tony Coelho, former Senator Pete Wilson, and area Congressman Gary Condit have been instrumental in the campaign to save this very precious national resource. We appreciate the strong support for the Lower Merced River that this Committee and the House Interior Committee have shown in the past. Hopefully, the designation of the Lower Merced can be achieved quickly in this Congress.

We urge you to support S. 549. And a final note—our office has very complete files on the full range of Merced River issue. We encourage the Committee and its staff to use us as a resource if any questions are raised at the hearings that need prompt the need for additional information.

Thank you.



THE LOWER MERCED RIVER: BLM COUNTRY

PREPARED STATEMENT OF RONALD M. STORK, ASSOCIATE CONSERVATION DIRECTOR, FRIENDS OF THE RIVER

Dear Mr. Chairman and Members of the Committee: My name is Ronald M. Stork, Associate Conservation Director of Friends of the River, a California river conservation group with over 10,000 members. I want to thank you and the Committee for the striking attention paid to S. 549, the Merced River wild & scenic river bill, in last week's hearing.

MID'S TESTIMONY

At the hearing, much of the Committee's attention was focused on the Merced Irrigation District's (MID) concerns that the designation of the river at New Exchequer Dam's maximum normal storage pool (also the top of the Dam's seasonal flood control storage space) would prevent the District from using its ungated emergency spillway and require the District to carry a larger flood storage space—reducing the Dam's ability to store water. The District's mischaracterization of the effect and intent of this bill—both before this Committee and in local forums in California—has generated some comments to this Committee from area governments and citizens who have been misinformed that this bill would reduce local water supplies.

However, we do appreciate the District's action in bringing before the Committee a clear idea of what the District's problem is with this bill. This serves the purpose of narrowing and focusing the Committee's scope of work—making solutions to MID's concerns possible.

MID'S SUGGESTED AMENDMENTS

MID's proposed solution to this "problem" is to move the reservoir/wild & scenic river boundary one half mile upstream and up 11.3 feet in elevation (corresponding to the maximum design height of the ungated spillway). At the hearing, the Wilderness Society, with our strong support, opposed this proposed amendment because it would permit the District to expand New Exchequer Dam and inundate this portion of the river, as well as deny these lands the modifications of the public land and mining laws that apply to designated wild & scenic rivers.

MID's proposed amendment is a "solution" in search of a problem. My statement submitted for the Record at least week's hearings explains the legal reasoning why FERC is permitted under the Wild & Scenic River Act to license projects where the elevation of spills flowing over ungated emergency spillways might be higher than the base elevation of the designated reach of river upstream.

NATIONAL W&S RIVER BOUNDARY PRECEDENTS

But just as importantly, experience in California has demonstrated that FERC has not required its licensees to modify the operation of dams and reservoirs that have upstream wild and scenic river designations that end essentially at the elevation of the lip of the ungated spillway, within the emergency spillway surcharge area, and within FERC project boundaries.

Please examine the attached table that shows the two national wild & scenic rivers in California that end in reservoirs behind FERC licensed dams—both very similar in design and operation to the District's New Exchequer Dam on the Merced. The wild and scenic river corridor of the Middle Fork of the Feather River (one of the original wild & scenic rivers created in the 1968 Wild and Scenic Rivers Act) begins at Oroville Dam's normal maximum pool and seasonal flood storage space—like the BLM's proposal for the Merced River. The wild and scenic river corridor for the Tuolumne River was drawn at the nearest upstream quarter section line above Don Pedro Dam's normal maximum pool and seasonal flood storage space. On both rivers, the wild and scenic river/reservoir boundary elevation is well downstream of the elevation of a fully used emergency spillway. Again on both rivers, the wild and scenic river corridor extends into the FERC project boundaries; and on the Tuolumne the surcharge maximum pool (at the design height of the ungated spillway just below the crest of the dam) extends beyond the FERC project boundaries.

AGENCY BOUNDARY DETERMINATIONS

In over 22 years since designation of the Middle Fork Feather and 7 years on the Tuolumne, neither the Commission nor the licensees have shown any concern that drawing the wild & scenic river boundary line at the normal maximum pool would prevent the licensee from using the emergency spillway just above in times of flood.

(For these three dams, such use could only occur with a full reservoir—presumably with the gated spillways and other water release systems already at full capacity. All of these dams experience some minor damage to the dam's road network when water pours over the top of the ungated spillway and could experience catastrophic failure of the main dam if flows begin to exceed the design height of the spillway.)

Perhaps these previously non-controversial agency boundary determinations resulted from an appreciation by all parties that you can't store water above an ungated spillway—and it is impounded water in reservoirs that FERC cannot license or under Section 7 of the Wild & Scenic Rivers Act. Perhaps it just didn't come up as an issue in the boundary making decision because the USGS and everybody else uses the ungated spillway elevation of a reservoir to establish the extent of a reservoir on a map. (For example, the recently and quietly established Yosemite National Park wilderness boundaries around non-FERC jurisdictional Hetch-Hetchy Reservoir were drawn to the USGS map pool contours determined by the spillway lip elevation of O'Shaughnessy Dam.) Perhaps people noticed that the MF Feather's and Tuolumne's reservoirs bathtub rings start below the normal maximum pool, not above it. Perhaps it is obvious to all that the lip of a wide ungated spillway is the top of the dam.

In any event, the owners (and their lawyers) of the second and fifth largest onstream storage reservoirs in California don't seem to have been concerned about their legal ability to use their ungated emergency spillways. Friends of the River believes that their unconcern is perfectly justified and notes that no statutory or report language clarifying their ability to use emergency ungated spillways was included in the designating legislation and accompanying reports.

DOOMSDAY SCENARIOS—FERC'S LACK OF REMEDIES

Moreover, the malevolent scenarios that MID believes that FERC may pursue now or at relicensing are not very plausible. MID has suggested that FERC might order MID to carry a larger seasonal flood storage space amounting to 7% of the capacity of McClure Reservoir to ensure that it would not encroach the ungated spillway (equivalent to the ephemeral "storage" in a fully surcharged spillway). However, this is an ineffective remedy, since there will always be potential, albeit infrequent, rainfall events that could fill up even a nearly empty reservoir and still pour water over the emergency spillway. Even quarrying down the elevation of the ungated spillway 11.3 feet could not guarantee anything but a reduced frequency of inundations above the old spillway lip.

ASSURANCE FOR MID

However, in spite of the improbable legal basis of a FERC order or relicensing decision unfavorable to New Exchequer Dam's storage abilities; in spite of the precedents that have established the lack of conflict with flood control operations of FERC licensed reservoirs and normal maximum pool wild & scenic river boundary lines; and in spite of the lack of any certain remedy available to FERC to prevent all floods from "encroaching" on the present ungated spillway elevation; Friends of the River repeats its longstanding call for the Committee and Congress to provide the Merced Irrigation District with strong assurance that FERC or other Federal agencies will not interfere with the flood operation of the existing project (or its relicensed incarnation) because of the designation of the Merced River upstream of the Lake McClure Reservoir at the normal maximum pool of the reservoir.

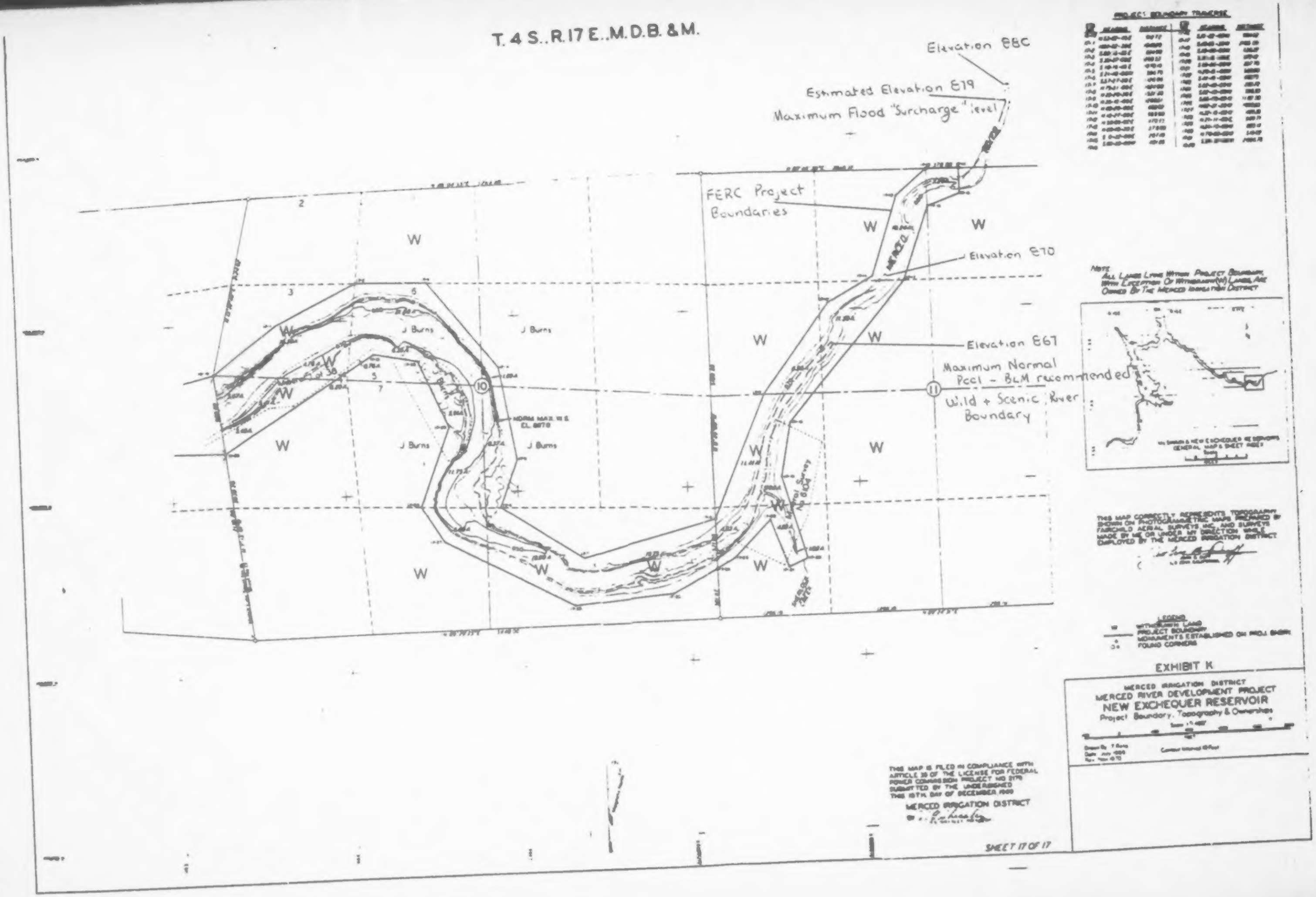
We suggest that such language be incorporated in Committee Report language and note that while last year's House Interior Committee Report mentioned that the bill would not interfere with the operation, maintenance, or relicensing of New Exchequer Dam and McClure Reservoir, the report did not specifically mention flood operation of the dam. Adding "flood operation" to such report language should give FERC and other federal agencies having permitting authority over Exchequer Dam very little opportunity to misinterpret either this proposed statute or the intent of Congress.

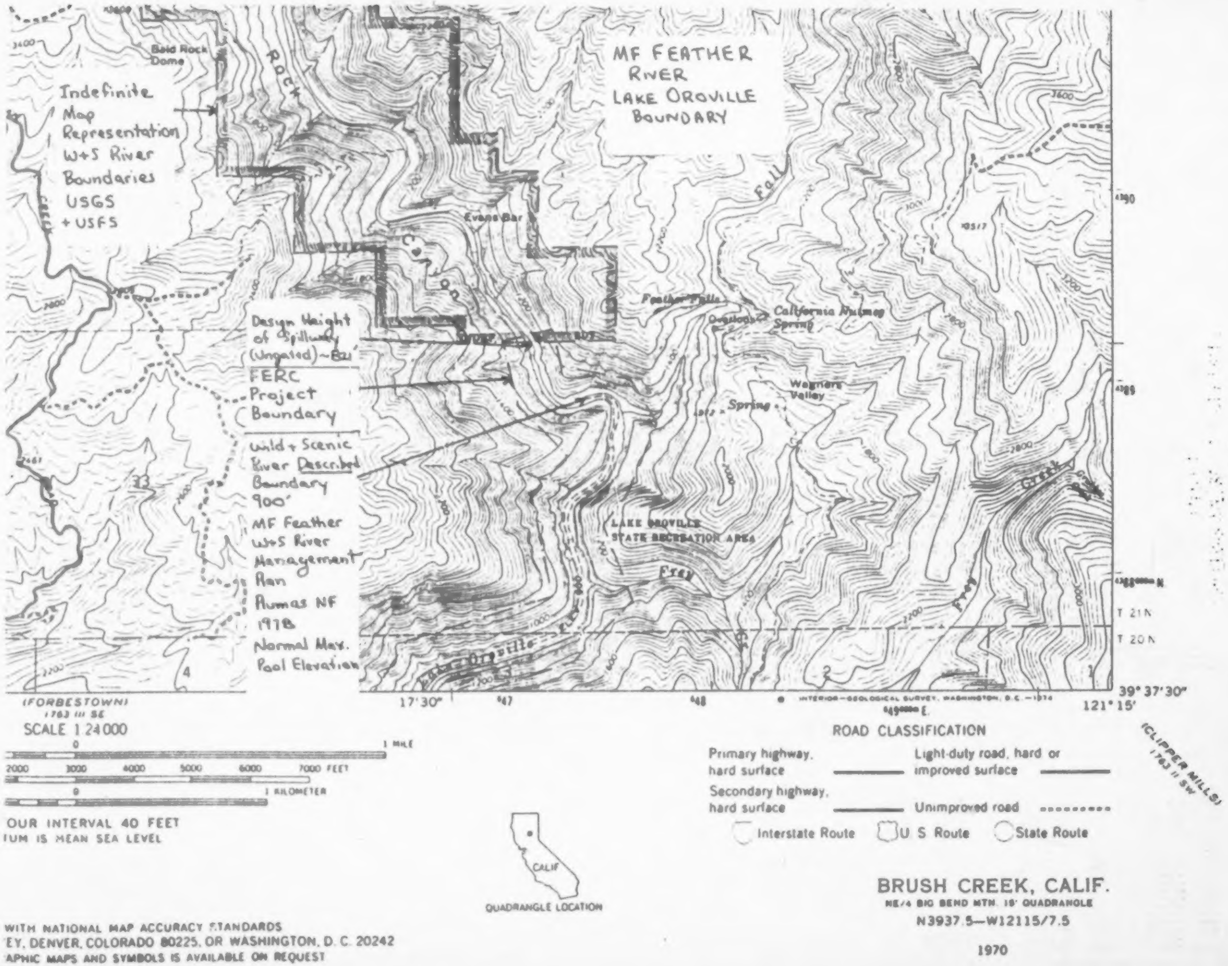
Established precedents and any reasonable interpretation of Section 7 of the Wild & Scenic Rivers Act would permit the District to enlarge New Exchequer Dam if the proposed wild & scenic river boundaries were moved upstream a half a mile to elevation 879. We are heartened by the apparent commitment of Senators Bumpers and Craig at the hearing to avoid this eventuality. Protecting the entire lower Merced River has been the intention of this Committee in the last two Congresses, as well as that of the Departments of the Interior and Agriculture.

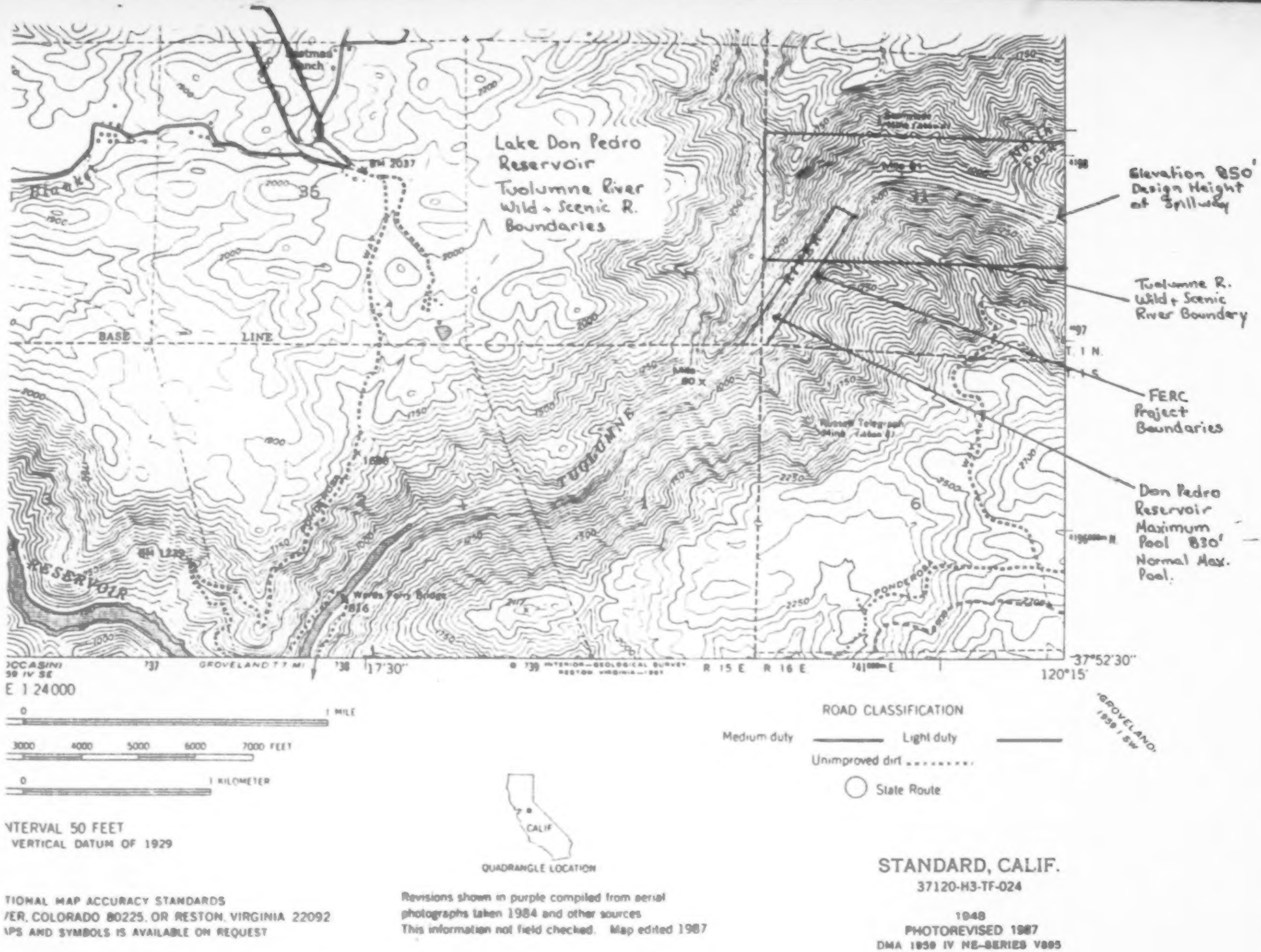
CALIFORNIA NATIONAL WILD & SCENIC RIVERS ENDING IN FERC LICENSED RESERVOIRS

	MIDDLE FK FEATHER	TUOLUMNE	MERCED
W&S Designation	1968	1984	*pending*
Dam	Oroville Dam & Reservoir – #2100	Don Pedro Dam & Reservoir – #2299	New Exchequer Dam & McClure Res.#2179
Date of Construction	1967 Earthfill	1970 Earthfill	1967 Rockfill
Owner	California Dept. of Water Resources	Modesto & Turlock Irrigation Districts	Merced Irrigation District
Reservoir Capacity	3,538,000 acre ft.	2,030,000	1,024,000
Primary Purpose of Dam	Principal Storage Reservoir, State Water Project, Southern Calif. Ag and M&I.	Ag water for 300,000 acres of District's farms. Exchange supply for San Francisco.	Ag water for 130,000 acres of Merced area farmland.
Elevation, Ungated Spillway Lip	901 ft.	-830 ft.	868 ft. (865 in FERC License)
Design Height of Ungated Spillway	-20 ft.	-20 ft.	11.3 ft.
Historical Use of ungated Spillway	Never – Use would damage facilities	Never – Use would damage facilities	Never – Use would damage facilities
Dam Crest/Top of Ungated Spillway	922 ft.	-850 ft.	879 ft.
Elevation, Normal Maximum Pool	900 ft.	830 ft.	867 ft.
Seasonal flood Control Storage & Maximum Elevation	750,000 acre ft. 900 ft.	340,000 acre ft. 830 ft.	350,000 acre ft. 867 ft.
W&S River/Reservoir Boundary Elevation	900 ft. 1978 W&S River Management Plan Plumas NF	-835 – 840 ft. (Nearest quarter section line above 830 ft.) 1987 W&S River Management Plan, BLM, NPS, & Stanislaus NF	*867 ft.* *By Congress based on 1991 Sierra NF Final LMP and BLM Final W&S River Management Plan*
FERC Project Boundary	-905 – 910 ft.	845 ft.	-876 ft. (interpolation from MID's 10 ft Contour Map filed with FERC)
Purpose of FERC Project Boundary Near River Boundary	Ownership by licensee, -500 ft. horizontal setback	Part of Surcharge Pool?, Reservoir Recreation, BLM Land	Surcharge Pool?, Reservoir Recreation, On BLM Land
Surcharge Pool Max. Upstream of FERC Project Boundary?	Probably -250 – 500 ft.	Yes -4,000 ft.	Yes -1,000 ft
W&S River within FERC Project Boundaries?	Yes, according to W&S plan description -400 ft.	Yes -900 ft.	*Yes* *-3000 ft.*

F.O.R. 3/27/91


T. 4 S., R. 17 E., M.D.B. & M.
PROJECT BOUNDARY TRAVERSE
Elevation 88C
Estimated Elevation 879
Maximum Flood "Surcharge" level
FERC Project Boundaries
Elevation 870
Elevation 867
Maximum Normal Pool - BLM recommended
Wild + Scenic River Boundary
W
J Burns
NORM MAX W.S. EL. 867.0
10
11
2
3
5
7
NOTE: All Lands Lying Within Project Boundary, With Exception Of Withdrawn (W) Lands, Are Owned By The Merced Irrigation District
GENERAL MAP & SHEET INDEX
THIS MAP CORRECTLY REPRESENTS TOPOGRAPHY SHOWN ON PHOTOGRAMMETRIC MAPS PREPARED BY FAIRCHILD AERIAL SURVEYS INC. AND SURVEYS MADE BY ME OR UNDER MY DIRECTION WHILE EMPLOYED BY THE MERCED IRRIGATION DISTRICT
LEGEND
W WITHDRAWN LAND
PROJECT BOUNDARY
MONUMENTS ESTABLISHED ON PROJ. BNDRY.
FOUND CORNERS
EXHIBIT K
MERCED IRRIGATION DISTRICT
MERCED RIVER DEVELOPMENT PROJECT
NEW EXCHEQUER RESERVOIR
Project Boundary, Topography & Ownerships
Contour Interval 10 Feet
THIS MAP IS FILED IN COMPLIANCE WITH ARTICLE 39 OF THE LICENSE FOR FEDERAL POWER COMMISSION PROJECT NO. 2179 SUBMITTED BY THE UNDERSIGNED THIS 15TH DAY OF DECEMBER 1969
MERCED IRRIGATION DISTRICT
SHEET 17 OF 17


MF FEATHER
RIVER
LAKE OROVILLE
BOUNDARY
Indefinite Map Representation W+S River Boundaries USGS +USFS
Design Height of Spillway (Ungated)~Bar
FERC Project Boundary
Wild + Scenic River Described Boundary 900' MF Feather W+S River Management Plan Plumas NF 1978
Normal Max. Pool Elevation
Bald Rock Dome
Rock
Canyon
Evans Bar
Feather Falls
Overlook
California Nutmeg Spring
Wagners Valley
Spring
Fall
Frey
Creek
LAKE OROVILLE STATE RECREATION AREA
Lake Oroville
T 21 N
T 20 N
39° 37'30"
121° 15'
17'30"
(FORBESTOWN) 1763 III SE
(CLIPPER MILLS) 1763 II SW
SCALE 1:24 000
1 MILE
7000 FEET
1 KILOMETER
OUR INTERVAL 40 FEET
TUM IS MEAN SEA LEVEL
ROAD CLASSIFICATION
Primary highway, hard surface
Light-duty road, hard or improved surface
Secondary highway, hard surface
Unimproved road
Interstate Route
U S Route
State Route
CALIF
QUADRANGLE LOCATION
BRUSH CREEK, CALIF.
NE/4 BIG BEND MTN. 15' QUADRANGLE
N3937.5—W12115/7.5
1970
WITH NATIONAL MAP ACCURACY STANDARDS
EY, DENVER, COLORADO 80225, OR WASHINGTON, D. C. 20242
APHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST
INTERIOR—GEOLOGICAL SURVEY, WASHINGTON, D. C.—1974



Lake Don Pedro Reservoir
Tuolumne River Wild + Scenic R. Boundaries
Elevation 850' Design Height of Spillway
Tuolumne R. Wild + Scenic River Boundary
FERC Project Boundaries
Don Pedro Reservoir Maximum Pool 830' Normal Max. Pool.
RESERVOIR
TUOLUMNE
BASE LINE
Wards Ferry Bridge
816
BM 2037
35
6
T. 1 N.
T. 1 S.
R 15 E
R 16 E
37°52'30"
120°15'
17'30"
GROVELAND 7.7 MI
E 1 24 000
1 MILE
3000 4000 5000 6000 7000 FEET
1 KILOMETER
ROAD CLASSIFICATION
Medium duty
Light duty
Unimproved dirt
State Route
GROVELAND 1959 I SW
QUADRANGLE LOCATION
CALIF
NTERVAL 50 FEET
VERTICAL DATUM OF 1929
TIONAL MAP ACCURACY STANDARDS
VER, COLORADO 80225, OR RESTON, VIRGINIA 22092
APS AND SYMBOLS IS AVAILABLE ON REQUEST
Revisions shown in purple compiled from aerial photographs taken 1984 and other sources
This information not field checked. Map edited 1987
STANDARD, CALIF.
37120-H3-TF-024
1948
PHOTOREVISED 1987
DMA 1959 IV NE–SERIES V895

PREPARED STATEMENT OF STEVE EVANS, PRESIDENT, CALIFORNIA WILDERNESS COALITION

Mr. Chairman and Honorable Members of the Subcommittee. The California Wilderness Coalition is pleased to support S. 549, a measure to designate the Lower Merced River as a Wild & Scenic River.

This bill completes the important work that Congress began in 1987 with the passage of Public Law 100–149 which designated the upper Merced River.

This legislation would do much to help protect the wilderness heart of the Merced River—the Merced River Wilderness Study Area and the its nearby wildlands.

PREPARED STATEMENT OF JENNIFER JENNINGS, LEGAL AFFAIRS DIRECTOR, PLANNING AND CONSERVATION LEAGUE

Dear Mr. Chairman: The Planning and Conservation League supports S. 549. The inclusion of the Lower Merced River into the National Wild and Scenic River System will complete a long standing effort by the Planning and Conservation League to protect this world famous river canyon.

The Merced River is a significant state as well as national resource. Its human and natural resources will be very well protected if this bill is enacted.

This measure is supported by many citizen groups, local government, and the federal land managing agency responsible for the lower Merced River. It has been thoroughly discussed for over half a decade and during that time a broad consensus of support for this legislation has emerged. This Committee and the full Senate passed wild & scenic legislation for the Lower Merced River in the last two Congresses.

Now is the time for Congressional action. We urge you to support this bill and favorably report this to the full Senate for their prompt action.

PREPARED STATEMENT OF WILLIAM M. IMHOFF, CO-OWNER, MOUNTAIN KING MINE

Mr. Chairman and Committee Members, I have been a co-owner of the Mountain King mine since 1977, and I have lived along the Merced River, which passes through one quarter mile of this property, for the past ten years. This experience has provided me with a first-hand opportunity to observe the river canyon and those who use it.

I believe that bill S. 549 presently before the Senate to include the lower section of the Merced River under Wild and Scenic protection, should be passed by the Senate in its entirety. My partner, myself and hundreds of other concerned citizens have actively worked for protection of this river for the past six years. In addition, we have petitioned the Bureau of Land Management to increase their management activities along this Public Lands segment of the river. Their positive response to protect the river has greatly enhanced the beauty and safety of the canyon. Passage of S. 549 would provide the Bureau of Land Management with the means to adequately protect and manage the river canyon and the several plants and animals species found to be of critical concern.

I have reviewed the Bureau of Land Management's Wild and Scenic Draft Management Plan and I support its Specific Area Objectives. I believe that implementation of this plan under Wild and Scenic designation would provide the essential protection necessary to preserve this river for what I believe to be its greatest value to the public.

I would like to underline the fact that no impoundments should be allowed to alter the flow of the river, flood the river canyon, or eliminate access to the canyon by inundating the river road. Any proposal for a hydro development would have the above negative effects and virtually eliminate most forms of recreation in the canyon. Presently this stretch of canyon provides badly needed alternatives to increasingly crowded Yosemite Park camping and recreation.

Any amendment to S. 549 providing for the possible development of a train route over the abandoned railroad grade (River Road) should be denied. I personally would not agree to permit an easement or right-of-way for such a development across my property, and in light of the fact that such a use would eliminate access to approximately twelve miles of recreational solitude and beauty for the general public and make it exclusive to train users. I believe the Senate should not adopt any such amendment.

Finally, I would like to add my support to the mineral withdrawal for this section of the river. The plan proposed by the Bureau of Land Mmanagement to create a recreational dredging park would provide the best opportunity for the public to enjoy these lands and eliminate conflict with mining claimants. A mineral withdrawal would greatly assist the Bureau of Land Management in achieving this objective.

Thank you for considering my testimony. I pray that you will act to protect this beautiful river canyon.

PREPARED STATEMENT OF HILDEGARDE H. HEIDT, CO-OWNER, MOUNTAIN KING MINE

Dear Chairman and Committee Members, I have been co-owner of 260 acres of land known as the Mountain King Mine since 1977 and have lived at this location on the Merced River for the past ten years. Approximately one-quarter of a mile of this private property includes the Merced River and my home which lay within the proposed Wild and Scenic Corridor.

I believe that bill S. 549 which is presently before the Senate should be passed in its entirety which would designate a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System.

During the past fourteen years, I have witnessed a dramatic increase in all types of recreational activity along the River. The petition of signatures which I personally collected and brought to Washington, D.C. four years ago, along with my testimony supporting the original Wild and Scenic legislation for the entire Merced River, was an example of over one thousand people who were using the River within a few miles of my house during just one weekend and who wanted Wild and Scenic protection.

These one-thousand signatures did not include children under 18 or the thousands of daily river rafters (sometimes near 300 per day) and kayakers who enjoy the Spring and Summer run-off on this famous whitewater river. Since that time, campers, fishermen, mountain bikers, backpackers, swimmers, gold panners and gold dredgers and families just out for the day have increased in number.

The Bureau of Land Management's three campgrounds provide picnic tables, fire rings, cleared designated camping areas and sanitation facilities free of charge. These improved campgrounds are filled to capacity on most summer weekends and during holiday seasons with the over-flow travelers from Yosemite Park (which is just a 45 minute drive along the Upper Merced River) and visitors from all parts of California. The Lower Merced is unique as it peacefully winds away from this busy highway to the Park into the solitude of a natural River Canyon. A gradual railroad grade which exists just thirty feet above the Merced River has been improved by the Bill to provide vehicle access to the campgrounds for the first five miles downstream. At this point, the road becomes a wide trail which is used by families of all ages, mountain bikers, fishermen and a few horseback riders. Generations ago, naturalist and writer, John Muir, hiked this very trail to the North Fork of the Merced which is only one hour from the campgrounds. Here he found miles of natural waterfalls dropping into emerald green pools which are enjoyed today for swimming and fishing. I have seen deer, foxes, wildcats, bears and even a Cougar travel through these areas.

Any water impoundment or dams downstream would flood the North Fork as well as the entire Lower Merced Canyon. The Merced Irrigation District plans to oppose S. 549, although it has not proved that their proposed dam will produce any additional water yield. The large, New Exchequer dam downstream has never needed to spill water since it was built in 1965. Obviously, the M.I.D. dam would put our home as well as the entire recreational corridor under one hundred feet of water and prevent the thousands of visitors who use this section of the River from entering the area.

The recent talk of a Tourist Train along this hiking and vehicle access trail would limit the various recreational activities along the Lower Merced to just paying railroad travelers on their way to El Portal, where they would have to transfer to busses to arrive in the Park. I oppose this limited use of an entire River Canyon.

I have read the Bureau of Land Management's Wild and Scenic Draft Management Plan and I support its concept to preserve the natural integrity of this River Corridor and the designation of specific areas of use for the many forms of recreation available.

I want to thank Senator Cranston for introducing S. 549 which proves his concern to help protect and preserve this valuable segment of America's natural resources.

Finally, I also would like to thank you Mr. Chairman and Committee Members for letting me take this opportunity to express my views regarding the area surrounding my home which is always a welcome place for all recreationalists to come and to enjoy at any stage in life and in all seasons of the year.

We sincerely request that this Committee's report is favorable.

Prepared Statement of Richard W. Kunstman

Mr. Chairman and Committee Members, in 1983, the Merced Irrigation District proposed a dam and hydroelectric project on the South Fork of the Merced River. The environmental community reacted with horror to this proposal and soon the Merced Canyon Committee was formed to oppose this development. Because of other threats to the river, the Committee objective became protection of the entire river by obtaining designation as a component of the National Wild and Scenic River System. In the interval from 1983 to 1986, many public discussions took place and frequent publicity appeared in the local news media.

In the fall of 1986, the Sierra National Forest published the Draft Land Management Plan. By agreement with the Bureau of Land Management, this publication was to be the vehicle for the entire river above Lake McClure including those portions on BLM lands. This plan called for classification of the segment from Briceburg to the Mountain King Mine as "Recreational" and for the segment from the Mountain King Mine to Lake McClure as "Wild'. Public hearings were held in Mariposa, Merced, Fresno and five other localities to solicit public input on the Draft Plan. The times and locations of these meetings were publicized in the local papers. There were 82 attendees at the Mariposa meeting which was the second highest of all the meetings.

In January 1987, a bill (S. 275) was introduced to designate the South Fork and the Main Stem of the Merced River as a component of the National Wild and Scenic River System. This Bill was opposed by the Mariposa County Board of Supervisors because they felt the designation would foreclose any possibility for the County to obtain domestic water from the river. A compromise was reached in the House/Senate Conference Committee which designated the South Fork and the Main Stem as far as Briceburg. This legislation was signed by President Reagan on 2 Nov. 1987. The Mariposa Gazette published the news of the legislation on the front page of the Nov. 5 edition. The article also pointed out that the lower river (from Briceburg to Lake McClure) had been assigned the status of a "Wild and Scenic Study Area".

Since 1987, the Mariposa County Board of Supervisors has diligently pursued development of a feasible plan to obtain water from the river in a manner which would have no direct and adverse effects on the values for which the river is considered for designation. These efforts have culminated in the Saxon Creek Project which has received preliminary approval from the Manager of the Folsom Resource Area (BLM). The environmental community has also found that this project will have no direct and adverse effects on the river's values. There have been ongoing public meetings and articles in the local papers referring to the project and the recommended classification of the river segments. The Mariposa County Board of Supervisors now support the designation of this portion of the river, as described in S. 549; which includes the provision for withdrawal of water for the Saxon Creek Project.

Now, after all this time and all this publicity, the Merced Irrigation District (MID) plans to oppose S. 549; because designation of the river would foreclose the option to construct another dam near the site of the former town of Bagby. This dam would flood the river canyon from Lake McClure to Briceburg. Much of the current impetus to construct additional dams is the result of the four-year drought that has afflicted California. However, MID has not shown that the proposed dam will produce any additional water yield. The present "New Exchequer" dam has never spilled water since its completion in 1965. Even during the heaviest rainfall years, it has not been necessary to close the flood gates. The reservoir harvests, and distributes to users, the entire flow of the Merced. It is very unlikely that MID could secure Federal or State assistance for a project which has so little promise of developing an additional water supply.

Development of a new reservoir would inundate several private properties along the river. Additionally, it would eliminate many recreational uses of the river. The BLM estimates 25,000 user days per year for this segment. The uses are divided into: camping, picnicking, swimming and whitewater rafting. The latter activity accounts for 10,000 user days. The McCabe Flat, Willow Placer and Railroad Flat campgrounds would also be eliminated. These campgrounds now handle a portion of the overflow from Yosemite National Park. Furthermore, flooding this canyon would have a serious detrimental effect on the Saxon Creek Project which will provide water for the town of Mariposa.

There is also the concern that, during heavy rainfall conditions, it will be necessary to raise the lake level to prevent downstream flooding. In this situation the lake would encroach on the Wild and Scenic corridor. MID professes to fear that they would be subject to penalties if this occurred. There has never been a case where a Utility or Reservoir Operator has been called to task when the reservoir intruded into the corridor under floodwater conditions. A case in point is the Oroville Dam which is operated by the State Water Project. The boundary of the Wild and Scenic corridor is set at the 901 ft. level which corresponds to the lip of the spillway. The normal lake level is 900 ft. and The Maximum Design Level for the lake, under flood conditions, is 921 ft. It appears that MID is looking for a solution in search of a problem.

The purpose of including a river in the National Wild and Scenic River System is to preserve and protect the values for which the river is designated. The Folsom Resource Area of the BLM has determined the eligibilities for classification of the two remaining segments. These are: "Recreational" for the segment from Briceburg to the Mountain King Mine and "Wild" from the Mountain King Mine to Lake McClure. These classifications will protect the river for the use and enjoyment of present and future generations. We respectfully request that the committee report favorably on Senator Cranston's bill.

PREPARED STATEMENT OF BRUCE GABRIAULT, MAYOR, MERCED, CA

Dear Senator Bumpers: The City Council of the City of Merced is extremely concerned about the effect of S. 549 as it adversely impacts both flood storage and agricultural/urban water availability in Lake McClure.

We want to make it clear that we are not opposed to designation of additional segments of the Merced River as "wild and scenic", S. 549 adds an additional eight miles of the Merced River to the "wild and scenic" river inventory. The difficulty that we have rests with the last half mile of that designation. By inclusion of this segment of the Merced River in the "wild and scenic" designation, the bill has the potential, upon relicensing by the Federal Energy Regulatory Commission (FERC) of the New Exchequer Project (Lake McClure) in the year 2014, of lowering the maximum flood storage pool from 878.3 feet down to 867 feet. The dam was designed for the higher elevation and this 11.3 feet constitutes a reservation for flood control purposes amounting to approximately 70,000 acre feet. In order to retain this flood storage, the storage for agricultural and urban uses could be reduced by FERC an amount of water which would irrigate 20,000 acres of prime agricultural land or serve a city of 200,000 people. Such action would diminish the power generation capacity for which the dam was originally designed.

We, frankly, do not understand why this last half mile of the Merced River is being included in the "wild and scenic" designation, since there has been no known damage or problem from operating the dam with its flood storage capability at the higher 878.3 foot level. We have been unable to receive any explanation for what practical purpose is served or why the elevation needs to be lowered from 878.3 feet down to 867 feet. We strongly urge that this bill either be modified or postponed for further study so that those who are suggesting this legislation can establish either a practical rationale that takes into account a balancing of interests in the various uses of the Merced River, or concur in a modification that retains the maximum flood storage pool at the 878.3 foot level for Lake McClure.

The urgency of this matter is brought home by the fact that on the same evening that the City Council heard a presentation regarding the impact of S. 549, the City Council also approved an agreement that is the first step toward development of surface water supplies through the Merced Irrigation District using Merced River water to support future growth in the City of Merced. We have received positive cooperation from the Merced Irrigation District in this regard because our growth is deliberately oriented toward not utilizing prime agricultural land. We are trying to do intelligent planning and intelligent growth. We need S. 549 to similarly reflect an understanding of the actual benefits and detriments associated with extending the "wild and scenic" designation of the Merced River this last half mile of encroachment into the Lake McClure maximum flood storage pool.

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